

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PN/73

- Applicant** : Ms. Yang Kerwan Christine represented by Goldrich Planners and Surveyors Limited
- Site** : Lot 60 S.C (Part) in D. D. 135, Sheung Pak Nai, Yuen Long, New Territories
- Site Area** : About 1,557m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Sheung Pak Nai and Ha Pak Nai Outline Zoning Plan (OZP) No. S/YL-PN/9
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Shop and Services (Plant Showroom) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (plant showroom) for a period of three years at the application site (the Site) (**Plan A-1**) zoned “AGR” on the OZP. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is currently hard-paved, erected with a structure at its northwest, and largely vacant (**Plans A-2, and A-4a and A-4b**).
- 1.2 The Site is accessible from Nim Wan Road via the vacant land to the north of the Site, with the ingress/egress located at the north of the Site (**Drawing A-2**). According to the applicant, the nature of the proposed shop and services use is a plant showroom within a plant nursery¹ for cultivation of flowers, which would be used for display of plant samples and storage of plant stocks cultivated. It would also be opened to customers for bulk and retail purchase. As shown on the layout plan at **Drawing A-1**, the plant nursery-cum-plant showroom involves nine single-storey structures (about 3m to 6m) with a total floor area of 795m² for greenhouses (used for plant nursery and plant showroom, the latter takes up a floor area of about 270m² or 34%), meter room, agricultural storage, as well as temperature-controlled seeds/flowers storage and germination. One parking spaces for light goods vehicles

¹ According to the Notes of the OZP for “AGR” zone, ‘Agricultural Use’ (of which ‘Plant Nursery’ subsumed under) is a Column 1 use which is always permitted.

will be provided. The open area would be used for plant showcase area and vehicle manoeuvring space.

1.3 According to the applicant, the operation hours would be between 10 a.m. to 6 p.m. daily, including Sundays and public holidays. Advanced booking is required for customers visiting the Site. Customers could access the Site by Green Minibus and then walk to the Site.

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with attachments received on 25.10.2023 (Appendix I)
- (b) Supplementary Information (SI) received on 2.11.2023 (Appendix Ia)
- (c) Further Information (FI) received on 4.12.2023 (Appendix Ib)
[accepted and exempted from publication requirements]

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the SI at **Appendix Ia**. They can be summarised as follows:

- (a) given that the structures proposed are temporary in nature, approval of the application on a temporary basis would not frustrate the long-term planning intention of the “AGR” zone;
- (b) species of flowers cultivated include orchid, tulip, lily, etc., which would primarily be supplied to local flower markets and for retail purchase;
- (c) the hard-paving on the Site had been in existence before the incorporation of land filling restriction to the “AGR” zone on the Sheung Pak Nai and Ha Pak Nai OZP No. S/YL-PN/7²;
- (d) the proposed use would provide job opportunities and promote agricultural activities in the area;
- (e) the proposed use is not incompatible with the surrounding land uses. No clearance of natural vegetation and tree felling would be undertaken. As such, the proposed use would not generate adverse visual and landscape impact; and
- (f) adverse impact on traffic, environment and archaeological aspects would not be generated. Drainage facilities would be provided.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Ordinance (TPB PG-No. 31B) by posting site notice and sending notification letter to the Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

² The draft Sheung Pak Nai and Ha Pak Nai OZP No. S/YL-PN/7 was gazetted on 29.4.2005.

4. Background

The Site is not subject to any planning enforcement action.

5. Previous Applications

The Site is involved in two previous applications (No. A/YL-HT/414 and A/YL-PN/30) for temporary racing circuit and temporary storage/open storage of construction materials, equipment and containers respectively. Both of them were rejected by the Rural and New Town Planning Committee (the Committee) of the Board in 2005 and 2011 respectively. The considerations of these previous applications are not relevant to the current application for temporary shop and services. Details of the previous applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

6. Similar Application

There is no similar application for shop and services use within the subject “AGR” zone.

7. The Site and Its Surrounding Areas (Plans A-1 to A-4b)

7.1 The Site:

- (a) falls within the Sheung Pak Nai Site of Archaeological Interest;
- (b) is hard-paved, erected with a structure at its northwest, and largely vacant; and
- (c) is accessible from Nim Wan Road via the vacant land to the north of the Site.

7.2 The surrounding areas are predominated by residential dwellings, cultivated agricultural land and shrubland/woodland. Other uses/features such as storage/open storage yards, plant nursery and a pond are also located in the vicinity. Some of the uses are suspected unauthorized developments (UDs) subject to planning enforcement action.

8. Planning Intention

The “AGR” zone is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

9. Comments from Relevant Government Departments

9.1 Apart from the government department as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.

9.2 The following government department does not support the application:

Agriculture

9.2.1 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) The proposed development is not supported from agricultural perspective.
- (b) The Site falls within the “AGR” zone and is generally vacant. The agricultural activities are active in the vicinity, and agricultural infrastructure such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. The Site possess potential for agricultural rehabilitation.

10. Public Comment Received During Statutory Publication Period

On 7.11.2023, the application was published for public inspection. During the statutory public inspection period, one public comment from an individual (**Appendix V**) was received objecting to the application mainly on the ground that the application for temporary shop and services is for disguising brownfield uses at the Site.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary shop and services (plant showroom) for a period of three years within the “AGR” zone of the OZP (**Plan A-1**). Although the proposed use is not in line with the planning intention of the “AGR” zone, and that DAFC does not support the application from agricultural perspective as the Site possess potential for agricultural rehabilitation, the proposed shop and services use is in fact a plant showroom within a plant nursery for flower cultivation, which would be used for, inter alia, display of plant samples for bulk and retail purchase. Regarding the hard-paving on the Site, the Site had been hard-paved before the incorporation of land filling restriction to the subject “AGR” zone in the Sheung Pak Nai and Ha Pak Nai OZP No. S/YL-PN/7 gazetted in 2005 (**Plan A-3b**). In view of the above and taking into account the planning assessments below, the proposed plant showroom on a temporary basis for a period of three years could be tolerated within the “AGR” zone.

11.2 The Site is located in an area predominated by residential dwellings, cultivated agricultural land and shrubland/woodland. The proposed use within a plant nursery is considered not incompatible with the surrounding land uses.

11.3 Other concerned government departments including the Commissioner for Transport, Director of Environmental Protection, Chief Town Planner/Urban Design and Landscape of Planning Department, Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD), Director of Fire Services (D of FS) and Chief Heritage Executive (Antiquities and Monuments) of Antiquities and Monuments Office have no objection to or no adverse comment on the application

on traffic, environmental, landscape, drainage, fire safety and archaeological aspects. The technical requirements of CE/MN of DSD and D of FS could be addressed by imposing approval conditions recommended in paragraph 12.2 below.

- 11.4 Regarding the public comment objecting to the application as stated in paragraph 10 above, any UD on the Site would be subject to planning enforcement action.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department considers that the proposed temporary shop and services (plant showroom) could be tolerated for a period of three years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of three years until **22.12.2026**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no vehicle exceeding 5.5 tonnes, including medium goods vehicle, heavy goods vehicle and container trailer/tractor, as defined in the Road Traffic Ordinance, is allowed to enter/exit or to be parked/stored on the Site at any time during the planning approval period;
- (b) the submission of a drainage proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Drainage Services and the Chief Heritage Executive (Antiquities and Monuments) of Antiquities and Monuments Office or of the Town Planning Board by **22.6.2024**;
- (c) in relation to (b) above, the implementation of the drainage proposal within **9 months** from the date of planning approval to the satisfaction of the Director of Drainage Services and the Chief Heritage Executive (Antiquities and Monuments) of Antiquities and Monuments Office or of the Town Planning Board by **22.9.2024**;
- (d) in relation to (c) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (e) the submission of a fire service installations proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **22.6.2024**;
- (f) in relation to (e) above, the implementation of the fire service installations proposal within **9 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **22.9.2024**;
- (g) if any of the above planning condition (a) or (d) is not complied with during the planning approval period, the approval hereby given shall cease to have

effect and shall be revoked immediately without further notice; and

- (h) if any of the above planning condition (b), (c), (e) or (f) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed use is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant planning permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form with attachments received on 25.10.2023
Appendix Ia	SI received on 2.11.2023
Appendix Ib	FI received on 4.12.2023
Appendix II	Previous Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment Received During Statutory Publication Period
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Plan A-1	Location Plan with Previous Applications
Plan A-2	Site Plan
Plans A-3a and A-3b	Aerial Photo taken in 2022 and 2005
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2023**