

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PS/694

- Applicant** : Hoi Fu Man Fung Gondola Company Limited represented by Mr. Wong Sun Wo William
- Site** : Lots 48 (Part), 52 (Part), 53 (Part), 54 (Part), 55 RP (Part), 65 (Part) and 674 (Part) in D.D. 126, Ping Shan, Yuen Long, New Territories
- Site Area** : About 14,680 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/20
- Zoning** : “Recreation” (“REC”)
- Application** : Filling of Land for Permitted Agricultural Use

1. The Proposal

- 1.1 The applicant seeks planning permission for filling of land for permitted agricultural use at the application site (the Site). The Site falls within an area zoned “REC” on the OZP (**Plan A-1**). According to the Notes of the OZP for the “REC” zone, while ‘Agricultural Use’ is a Column 1 use which is always permitted, filling of land requires planning permission from the Town Planning Board (the Board). The Site is currently mainly used for agricultural use comprising a number of greenhouse structures and partly vacant (**Plans A-2, A-4a to A-4c**).
- 1.2 According to the applicant, the Site is accessible via a local track leading from Tin Wah Road (**Plans A-2 and A-3**). The current application which is for filling of land covering the entire site with soil, concrete and bricks with a depth of about 0.15m is to regularise the filling of land at the Site for permitted agricultural use. The hard-paved area (mainly covered by concrete) occupies about 4,000m² (27% of the total site area) is mainly for ancillary parking, manoeuvring space and emergency access (**Drawing A-2**). Bricks are laid on the floor of the greenhouse structures for circulation and prevention of soil erosion. The remaining areas of the Site are mainly covered with soil. The layout plan with vehicular access, land filling plan, landscape plan and drainage plan submitted by the applicant are shown at

Drawings A-1 to A-4 respectively.

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

- (a) Application form and supplementary statement (**Appendix I**) received on 14.7.2023
- (b) Supplementary Information (SI) received on (**Appendix Ia**) 20.7.2023
- (c) Further Information (FI) received on 23.11.2023[#] (**Appendix Ib**)
- (d) FI received on 15.1.2024* (**Appendix Ic**)
- (e) FI received on 24.1.2024[#] (**Appendix Id**)
- (f) Consolidated Report received on 18.6.2024[^] (**Appendix Ie**)
- (g) FI received on 27.6.2024[#] (**Appendix If**)
[^][FIs received on 26.9.2023, 18.10.2023*, 11.12.2023*, 15.2.2024*, 3.4.2024* and 6.5.2024* were superseded and not attached]*

**accepted but not exempted from publication and recounting requirements*

[#]accepted and exempted from publication and recounting requirements

1.4 On 8.9.2023 and 8.1.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to the applicant's requests to defer making a decision on the application each for two months.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendices I to If** and are briefly summarised as follows:

- (a) the applicant has been selling gardening and construction materials at a site at Tong Yan San Tsuen but it is subject to land resumption by the Government. The applicant would like to continue the business operation at the Site for gardening while separate planning applications have been submitted for adjoining sites for other uses. The area used for agriculture and plant nursery at the previous site is similar to the site area under the current application; and
- (b) the application serves to regularise the filling of land in order to provide a suitable access for emergency access and supporting the operation of the agricultural use. The structures at the Site are farming structures with prior approval obtained from Lands Department (LandsD) and Agriculture, Fisheries and Conservation Department (AFCD).

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is not the "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 Town Planning Ordinance (TPB PG-No. 31A¹) by posting notice at the Site and sending registered post to the Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is the subject of a planning enforcement case (No. E/YL-PS/755) against unauthorized development (UD) involving filling of land. Reinstatement Notice was issued on 28.6.2023 and expired on 28.9.2023. As the Site has not been reinstated upon expiry of the notice, prosecution action is being considered.

5. **Town Planning Board Guidelines**

The Town Planning Board Guidelines for “Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance” (TPB PG-No. 12C) are relevant to this application. According to the said Guidelines, the Site falls within the Wetland Buffer Area (WBA). Relevant extract of the Guidelines is at **Appendix II**.

6. **Previous Applications**

6.1 The Site is involved in three previous applications (No. A/DPA/YL-PS/50, A/YL-PS/42 and 244) for temporary container vehicle park, filling of pond and temporary eating place which were all rejected by the Committee or by the Board upon review between 1996 and 2006. Details of these previous applications are shown in **Appendix III** and their boundaries are shown on **Plan A-1**. As applications No. A/DPA/YL-PS/50 and A/YL-PS/244 for temporary container vehicle park and temporary eating place with ancillary storeroom respectively involve different uses to the current application, the considerations for the said applications are not relevant.

6.2 Application No. A/YL-PS/42 for filling of pond for growing of vegetables, covering the north-western part of the Site, was rejected by the Committee on 11.12.1998. Considerations of this application are also not relevant to the current application which involves filling of land.

7. **Similar Applications**

There are three similar applications (No. A/YL-PS/675, 698 and 699) involving filling of land for proposed temporary shop and services and public vehicle park respectively for a period of five years within the same “REC” zone in the past five years. They were approved with conditions by the Committee on 31.3.2023 and 24.11.2023 respectively mainly on considerations that the applied uses would not frustrate the long-term planning intention of the “REC” zone; not incompatible with the

¹ The current application was received before the promulgation of the revised TPB PG-No. 31B in September 2023.

surrounding areas; and concerned government departments had no objection to/no adverse comment on the application. Details of the applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

8. The Site and Its Surrounding Areas (Plans A-1 to A-4c)

8.1 The Site is:

- (a) mainly used for agricultural use comprising a number of greenhouse structures and partly vacant; and
- (b) accessible via a local track leading from Tin Wah Road and Tin Tsz Road.

8.2 The surrounding areas comprise predominantly shops, parking of vehicles, unused land, cultivated land, scrubland/woodland and ponds. Some of the uses are covered by valid planning permission and some uses are suspected unauthorized developments subject to planning enforcement action.

9. Planning Intention

9.1 The “REC” zone is intended primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

9.2 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the environment, permission from the Board is required for such activities.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) no adverse comment on the application from land administration point of view;
- (b) no objection to the filling of land from the lease perspective;
- (c) the Site comprises Old Schedule Agricultural Lots held under the Block Government Lease and New Grant Agricultural Lot held

under Government Gazette dated 24.10.1941 and G.G. 364 of 1934, which contains the restriction that no structures are allowed to be erected without the prior approval of the Government;

- (d) it is noted that the filling of land is for permitted agricultural use on the Site and vehicle parking on Lot 48 in D.D. 126;
- (e) there is no any guarantee of right of access. The applicant should make its own arrangement for acquiring access. The Government shall accept no responsibility on arrangement; and
- (f) a Letter of Approval was given for the erection of agricultural structures and a watchman hut on Lot 48 in D.D. 126.

Traffic

10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) no comment from traffic engineering perspective; and
- (b) the applicant should note her advisory comments at **Appendix V**.

10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) no adverse comment on the application from highways maintenance point of view; and
- (b) the applicant should note his advisory comments at **Appendix V**.

Environment

10.1.4 Comments of the Director of Environment Protection (DEP):

- (a) no objection to the application;
- (b) the applicant should note his advisory comments at **Appendix V**; and
- (c) there was one substantiated environmental complaint regarding waste pertaining to the Site in the past three years.

Drainage

10.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN,DSD):

- (a) no objection in principle to the application from drainage point of view and has no comment on the submitted drainage impact assessment together with the drainage proposal; and
- (b) should the application be approved, an approval condition should be stipulated in the approval letter requiring the applicant to implement and maintain the proposed drainage facilities to the satisfaction of his office.

Fire Safety

10.1.6 Comments of the Director of Fire Services (D of FS):

- (a) no comment on the filling of land; and
- (b) the applicant should note his advisory comment at **Appendix V**.

Geotechnical Aspect

10.1.7 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) no comment on the geotechnical planning review report (GPRR) and the supplementary geotechnical feature drawing; and
- (b) as his office has no record of the design and construction of the filling works and slopes at the Site, the applicant should note his advisory comments at **Appendix V**.

District Officer's Comments

10.1.8 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

His office has not received any feedback from locals.

Others

10.1.9 Comments of the Principal Land Executive/Yuen Long Projects, Lands Department (PLE/YLP, LandsD):

- (a) the business undertaking (BU), Hoi Fu Man Fung Gondola Company Limited (i.e. the applicant), is one of the affected business operators under the public housing development at Long Bin, Yuen Long and its business area falls within resumption/clearance limit of the Long Bin project; and
- (b) according to his site inspection record, it was revealed that the

business operation area of the subject BU was mainly used for storage of machines and construction materials. The operator also engaged in agricultural activities with cultivation and greenhouse nearby.

10.2 The following Government bureau/departments have no objection to/no adverse comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Chief Building Surveyor/New Territories West (CBS/NTW), BD;
- (c) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD)
- (d) Director of Electrical and Mechanical Services (DEMS);
- (e) Project Manager (West) (PM(W)), CEDD;
- (f) Director of Leisure and Cultural Services (DLCS); and
- (g) Commissioner of Police (C of P).

11. **Public Comments received During the Statutory Publication Periods**

On 25.7.2023, 17.10.2023, 10.11.2023, 29.12.2023, 30.1.2024, 27.2.2024, 26.4.2024 and 17.5.2024, the application and its FIs were published for public inspection. During the statutory public inspection periods, three public comments from the same individual were received (**Appendix VII**) objecting to the application mainly on the ground that the location of the Site is near the wetlands and brownfield operations are undesirable at the Site.

12. **Planning Considerations and Assessments**

- 12.1 The application is for filling of land with concrete, bricks and soil of about 0.15m in depth for permitted agricultural use at the Site within the “REC” zone. Whilst ‘Agricultural Use’ is always permitted within the “REC” zone, filling of land within the “REC” zone requires planning permission as it may cause adverse drainage impacts on the adjacent area and adverse impacts on the environment. In this regard, CE/MN, DSD and DEP have no objection to the application on drainage and environmental aspects respectively.
- 12.2 The Site is situated in an area predominated by shops, parking of vehicles, unused land, cultivated land, scrubland/woodland and ponds in the proximity (**Plan A-2**). The proposed filling of land for permitted agricultural use is considered not incompatible with the surrounding landscape character. In this regard, CTP/UD&L, PlanD has no comment on the application.
- 12.3 While the Site falls within the WBA of the TPB PG-No. 12C, planning applications for local and minor uses are exempted from the requirement of ecological impact assessment. In this regard, DAFC has no comment on the application. Other relevant government departments, including the C for T and D of FS, have no objection to or adverse comment on the application. To address the technical requirements of concerned government departments, relevant approval conditions are recommended in

paragraph 13.2 below.

- 12.4 The Committee had approved three similar application for various temporary uses with filling of land within the same “REC” zone in 2023 (**Plan A-1**). Approval of the current application is in line with the Committee’s previous decisions.
- 12.5 There are three public comments from an individual objecting to the application received during the statutory publication periods as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.5 above are relevant.

13. **Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, no time clause on commencement is proposed as the ‘filling of land’ operation under the application has already been completed. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no part of the Site shall be filled ~~other than gravel~~ to a depth exceeding 0.15m, as proposed by the applicant;
- (b) the implementation of the drainage proposal, as proposed by the applicant, to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (c) in relation to (b) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period; and
- (d) if any of the above planning condition (a), (b), or (c) is not complied with, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

Advisory clauses

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

- 13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection is suggested for Members’ reference:
- (a) the applied filling of land, which falls within the Wetland Buffer Area, is not in line with the Town Planning Board Guidelines for ‘Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 12C) in that there

is no ecological impact assessment in the submission to demonstrate that the filling of land would not have negative off-site disturbance impact on the ecological value of the Wetland Conservation Area; and

- (b) the applicant fails to justify the need for the filling of land, and to demonstrate that the filling of land would not have adverse landscape impact on the surrounding areas.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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 date when the validity of the permission should expire.
- 14.3 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.

15. Attachments

Appendix I	Application Form received on 14.7.2023
Appendix Ia	SI received on 20.7.2023
Appendix Ib	FI received on 23.11.2023
Appendix Ic	FI received on 15.1.2024
Appendix Id	FI received on 24.1.2024
Appendix Ie	Consolidate Report received on 18.6.2024
Appendix If	FI received on 27.6.2024
Appendix II	Extract of the TPB PG-No. 12C
Appendix III	Previous Applications
Appendix IV	Similar Applications
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Layout Plan with Vehicular Access
Drawing A-2	Land Filling Plan
Drawing A-3	Landscape Plan
Drawing A-4	Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos