

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/297

<u>Applicants</u>	Mr. LO Chun Keung, Mr. HO Yau Kwong and Mr. CHAN Wai Ping represented by Allgain Land Administrators (Hong Kong) Limited
<u>Site</u>	Lot 1639 S.A (Part) in D.D. 114, Shek Kong, Yuen Long
<u>Site Area</u>	About 1,080 m ²
<u>Lease</u>	Tai Po New Grant No. 2997 (for fruit growing purpose)
<u>Plan</u>	Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<u>Zoning</u>	“Agriculture” (“AGR”)
<u>Application</u>	Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years

1. The Proposal

- 1.1 The applicants seek planning permission to use the application site (the Site) for proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 years (**Plan A-1**). According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Hobby Farm)’ is a Column 2 use within the “AGR” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant, fenced and covered with weeds.
- 1.2 According to the applicants, there will be two single-storey structures with a building height of not exceeding 3.5m and a total non-domestic floor area of about 150m² (about 13.9% of the Site) within the Site for site office, reception, changing room, agricultural education room, agricultural tools storage room and washroom uses (**Drawing A-1**). The remaining part of the Site will be used as plots of farmland (about 600m² or 55.6% of the Site) and circulation/parking spaces on soiled ground (about 330m² or 30.5% of the Site). No filling of land will be involved within the Site. The opening time is 9:00am to 6:00pm daily. The Site is accessible via a local track from Kam Sheung Road, and two private car parking spaces for staff use will be provided at the Site. The layout plan submitted by the applicants is at **Drawing A-1**.
- 1.3 In support of the application, the applicants have submitted the following documents:

- (a) Application Form with Planning Statement received on 14.1.2021 **(Appendix I)**
- (b) Further information (FI) dated 3.3.2021 **(Appendix Ia)**
(*exempted from publication*)

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in **Appendices I and Ia**, and are briefly summarized as follows:

- (a) the proposed development is on a temporary basis for a period of 3 years and therefore will not jeopardize the long-term planning intention of the “AGR” zone. It is also considered not incompatible with the surrounding land uses. Upon the expiry of the planning permission, the applicants will reinstate the Site to a condition suitable for agricultural use;
- (b) the proposed development is intended to serve as a platform to promote sustainable farming of local crops in Hong Kong. In terms of the farm operation, the estimated maximum number of visitors would be 20 per day, and there will be about three staff members at the Site. A total of two inbound and two outbound trips by staff per day are anticipated to be generated by the proposed development. Visitors are required to make appointment in advance and travel to the Site by public transport along Kam Sheung Road; and
- (c) the applicants would follow the relevant guidelines of the Environmental Protection Department to minimize possible environmental impacts to the surrounding area. Adequate drainage/sewerage (including septic tank for the washroom) facilities and fire service installations will be provided on-site. In addition, the applicants will preserve the existing trees (**Plan A-4**) on-site, and no tree felling will be involved.

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

The applicants are the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

While the Site is currently not subject to any active planning enforcement action, it was once subject to a planning enforcement action (No. E/YL-SK/208) against unauthorized development (UD) involving storage use (**Plan A-2**). Enforcement Notices (ENs) and Reinstatement Notice (RN) were issued between 2018 and 2019, and Compliance Notice (CN) was subsequently issued on 12.11.2020.

5. Previous Application

There is no previous application in respect of the Site.

6. Similar Application

- 6.1 There is one similar application (No. A/YL-SK/290) for proposed temporary place of recreation, sports or culture (hobby farm) use for a period of 5 years with filling of land within the same “AGR” zone on the OZP, which was recently approved by the Rural and New Town Planning Committee (the Committee) in November 2020. Details of the previous application are summarised in **Appendix II** and its location is shown on **Plan A-1**.
- 6.2 The above application was approved with conditions by the Committee on 20.11.2020 on the similar considerations that the development was generally not in conflict with the planning intention of the “AGR” zone and would not jeopardise its long-term planning intention; it was not incompatible with the surrounding environment; relevant Government departments consulted had no adverse comment on the application; and the technical concerns/requirements of the relevant Government departments could be addressed by the approval conditions.

7. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3, and site photos on Plan A-4)

7.1 The Site is:

- (a) currently vacant, fenced and covered with weeds; and
- (b) is accessible via a local track of about 410m long to its northwest from Kam Sheung Road.

7.2 The surrounding areas are predominantly rural in character with active/fallow farmland, domestic dwellings/structures, storage/open storage yards and vacant/unused land:

- (a) to its northeast, east and southeast across the local track are mainly clusters of domestic dwellings/structures intermixed with open storage yards, fallow farmland and vacant/unused land within the “Residential (Group D)” (“R(D)”) zone. To its further southeast is a site with a recent planning approval for proposed temporary shop and services (metalware retail shop) with filling of land, i.e. application No. A/YL-SK/271 (**Plan A-2**); and
- (b) to its other sides are an orchard, fallow farmland, burial urns and vacant/unused land intermixed with a few domestic dwellings/structures within “AGR” zone. To its further south is a site with a recent planning approval for proposed temporary hobby farm with filling of land, i.e. application No. A/YL-SK/290 (**Plan A-2**).

8. Planning Intention

The planning intention of the “AGR” zone is 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 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

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

- (a) the Site comprises Lot 1639 S.A held under Tai Po New Grant No. 2997 for fruit growing purpose; and
- (b) should planning approval be given to the planning application, the lot owner(s) will need to apply to his office for a Short Term Waiver (STW) to (i) waive the user restriction as stipulated in the lease conditions, if any, and/or (ii) to permit the structures to be erected, and/or (iii) regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD.

Traffic

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

- (a) having regard to the FI (**Appendix Ia**), he has no comment on the application from traffic engineering perspective;
- (b) should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included; and
- (c) the Site is connected to the public road network via a section of a local access road which is not managed by the Transport Department. The land status of the local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road; and
- (b) adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads and drains.

Agriculture and Nature Conservation

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

- (a) the Site falls within “AGR” zone and possesses potential for agricultural rehabilitation. Having regard to the FI (**Appendix Ia**), he has no strong view against the application from agricultural point of view on the understanding that agricultural activities are involved in the proposed use and the Site will be reinstated upon the expiry of the planning permission; and
- (b) noting the Site is primarily disturbed in nature, he has no adverse comment on the application from nature conservation perspective.

Landscape

9.1.5 Comments of the Chief Town Planner/Urban Design & Landscape, PlanD (CTP/UD&L, PlanD):

- (a) he has no objection to the application from landscape planning perspective;
- (b) based on the aerial photo of 2020, the Site is situated in an area of rural inland plains landscape character comprising scattered tree groups, temporary structures and vacant land. According to his record, application No. A/YL-SK/290 for similar use located to the south of the Site was approved in 2020. The proposed use is considered not incompatible with the surrounding environment;
- (c) referring to his site record dated 10.2.2021, the Site is vacant and covered by wild grasses. Two existing common trees *Celtis sinensis* (朴樹) and *Litchi chinensis* (荔枝) are found at the northern and western boundary of the Site respectively (**Plan A-4**), which are not in conflict with the proposed structures. According to the applicants' submission, the proposed development would not cause tree felling and the existing trees within the Site would be maintained by the applicants. Significant adverse impact on landscape resources arising from the proposed development is not anticipated; and
- (d) the applicants are reminded that approval of the planning application does not imply approval of tree works such as pruning, transplanting and felling under lease. Tree removal applications should be submitted to DLO/YL, LandsD direct for approval.

Environment

9.1.6 Comments of the Director of Environmental Protection (DEP):

- (a) he has no objection to the application from environmental planning perspective, provided that the applicants would minimize any noise from the proposed use such as prohibiting the use of public announcement system, portable loudspeakers or any form of audio amplification system so that it would not cause adverse environmental nuisance to nearby sensitive receivers;
- (b) the applicants are advised to (i) follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site” to minimize any potential environmental nuisance; and (ii) provide adequate supporting infrastructure/facilities for proper collection, treatment and disposal of waste/wastewater generated from the proposed use. His detailed comments are at **Appendix IV**; and
- (c) there is no environmental complaint in relation to the Site received by DEP in the past three years.

Drainage

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

- (a) he has no objection in-principle to the proposed development from public drainage point of view; and
- (b) should the application be approved, the conditions requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning approval.

Building Matters

9.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) as there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application;
- (b) before any new building works (including containers/open sheds as temporary buildings, demolition, land filling, etc.) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are unauthorized building works (UBW). An

Authorized Person should be appointed as the coordinator for the proposed building works in accordance with the Buildings Ordinance (BO); and

- (c) for UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.

Fire Safety

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

- (a) he has no objection in-principle to the proposal subject to fire service installations being provided to his satisfaction;
- (b) in consideration of the design/nature of the proposal, fire service installations are anticipated to be required. Therefore, the applicants are advised to submit relevant layout plans incorporated with the proposed fire service installations to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed fire service installations to be installed should be clearly marked on the layout plans; and
- (c) the applicants are reminded that if the proposed structure(s) is required to comply with the BO, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

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

he has not received any comments from locals upon close of consultation and he has no particular comment on the application.

9.2 The following Government departments have no objection to/adverse comment on the application.

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD);
- (c) Commissioner of Police (C of P); and
- (d) Director of Electrical and Mechanical Service (DEMS).

10. Public Comments Received During Statutory Publication Period

On 22.1.2021, the application was published for public inspection. During the three-week statutory publication period, two public comments were received from Kadoorie Farm and Botanic Garden Corporation and an individual (**Appendix III**). Both raise concerns on whether the Site is suitable for farming and the proposed development is genuinely used as a hobby farm.

11. Planning Considerations and Assessment

- 11.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm) at the Site zoned “AGR” for a period of 3 years. The planning intention of the “AGR” zone is 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. According to the applicant, the proposed development is intended to promote sustainable farming of local crops in Hong Kong. The proposed use is generally not in conflict with the planning intention of the “AGR” zone, and about 55.6% of the Site (about 600m²) will be used as plots of farmland. DAFC has no strong view on the application from the agricultural point of view. It is considered that approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “AGR” zone.
- 11.2 The proposed temporary hobby farm with only two single-storey structures with a floor area of about 150m² is not incompatible with the surrounding environment which is mainly occupied by active/fallow farmland and domestic dwellings/structures (**Plan A-2**). According to the applicants, the estimated maximum number of visitors would be 20 per day, and there will be only three staff members at the Site. Two private car parking spaces will be provided at the Site. C for T, DEP, CE/MN of DSD, CTP/UD&L of PlanD and D of FS have no objection to/no comment on the application from traffic, environmental, drainage, landscape and fire safety aspects. It is anticipated that the proposed development would not have significant adverse traffic, environmental, drainage and landscape impacts on the surrounding areas. To mitigate potential environmental impacts on the surrounding areas, approval conditions restricting the operation hours and prohibiting the use of public announcement system are recommended in paragraph 12.2 (a) and (b) below. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 12.2 (c) to (h). Besides, the applicants would be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP.
- 11.3 There is one similar application (No. A/YL-SK/290) for temporary hobby farm use within the same “AGR” zone, which was recently approved by the Committee in November 2020. The Committee’s considerations on the application as stated in paragraph 6 are generally applicable to the current application and approval of this application is in line with the previous decision of the Committee.
- 11.4 Regarding the two public comments received during the statutory publication period, the departmental comments and planning considerations and assessment above are

relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments in paragraph 10, the Planning Department has no objection to the application.
- 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 3 years until 12.3.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. to 9:00 a.m., as proposed by the applicants, is allowed on the Site during the planning approval period;
- (b) no public announcement system, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the submission of drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 12.9.2021;
- (e) in relation to (d) above, the implementation of drainage proposal within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 12.12.2021;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of 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 12.9.2021;
- (h) in relation to (g) above, the implementation of 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 12.12.2021;
- (i) if any of the above planning condition (a), (b), (c) or (f) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked without further notice;
- (j) if any of the above planning condition (d), (e), (g) or (h) 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; and

- (k) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are 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 development 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. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission to justify 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 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 the 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 applicants.

14. Attachments

Appendix I	Application Form with Planning Statement received on 14.1.2021
Appendix Ia	Further information (FI) dated 3.3.2021
Appendix II	Similar Applications
Appendix III	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2021**