

RNTPC Paper No. A/YL-SK/299
For Consideration by
the Rural and New Town
Planning Committee
on 12.3.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/299

<u>Applicant</u>	: Mr. CHEUNG Chi Wah represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 84 S.A ss. 1 (Part) and 84 S.A RP (Part) in D.D. 112, Nam Hing West Road, Shek Kong, Yuen Long
<u>Site Area</u>	: About 675m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<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 and Culture (Hobby Farm) for a Period of 5 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary place of recreation, sports and culture (hobby farm) for a period of 5 years (**Plan A-1**) and to fill part of the Site which is required for the proposed structures (**Drawing A-2**). According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Hobby Farm)’ is a Column 2 use within the “AGR” zone, and planning permission from the Town Planning Board (the Board) is required for both the proposed use and filling of land. The Site is currently vacant and covered with weeds and a few trees.
- 1.2 According to the applicant, there will be three 1 to 2 storey structures (of about 3.5m-7m high) and a total floor area of about 177.3m² for agricultural learning room, ancillary site office, storage of farm tools, washroom, fire service water tank and installation uses (**Drawing A-1**). Part of the Site (about 123.3m² or about 18% of the Site) is proposed to be filled up (by not more than 0.2m to raise the site level from about 25.3 mPD to about 25.5 mPD) and hard-paved by concrete for the erection of three structures. About 385m² (about 57% of the Site)

will be used as farmland area. The remaining part of the Site (about 167 m² or about 25% of the Site) will remain as soiled ground area to be used for footpath, landscaping area and water reserve area for existing raw water mains (**Drawings A-1 and A-2**). The operation hours will be from 9:00am to 6:00pm daily. The Site is accessible from Kam Sheung Road via Ko Sheung Road and Nam Hing West Road. No parking or loading/unloading spaces will be provided on-site. The layout plan, paving ratio plan and landscape plan submitted by the applicant are at **Drawings A-1 to A-3**.

- 1.3 The Site is subject to a previous application (No. A/YL-SK/235) submitted by the same applicant for the same proposed use for a period of 3 years (**Plan A-1**) which was approved by the Rural and New Town Planning Committee (the Committee) on 4.5.2018. The planning approval was revoked on 4.8.2020 due to non-compliance with approval conditions in relation to submission and/or implementation of drainage, fire service installations (FSIs) and tree preservation/landscape proposals. To support the application, the current applicant has submitted drainage, FSIs and tree preservation/landscape proposals (**Appendix Ia**).
- 1.4 As compared to the last approved application (No. A/YL-SK/235), there is no major change in terms of site area/boundary, number of structures and floor area, except the layout (**Drawing A-1**), under the current application.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with attachments received on 19.1.2021 (**Appendix I**)
 - (b) Further Information received on 3.3.2021 (**Appendix Ia**)
(*exempted from publication*)

2. Justifications from the Applicant

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

- (a) the proposed hobby farm is intended to provide space for recreational farming for local community in Shek Kong area. The application is on a temporary basis for a period of 5 years and will not frustrate the long-term planning intention of the “AGR” zone. The Site is the subject of a previously approved application (No. A/YL-SK/235), and approval of the current application will not set an undesirable precedent for similar use within the same “AGR” zone;
- (b) following the planning approval for the last application (No. A/YL-SK/235) in 2018, the applicant submitted a Short Term Waiver (STW) application to Lands Department (LandsD) for erection of structures at the Site, and the approval of the STW application is still pending. Without LandsD’s STW approval, the

applicant could not commence the FSIs installation works to comply with the relevant approval condition. The planning permission was consequently revoked on 4.8.2020;

- (c) in terms of the hobby farm operation, the estimated maximum number of visitors per day would be about 12 visitors. There would be about 4 staff members stationed on the Site for maintaining the operation of the proposed hobby farm. Visitors will be required to make appointment in advance to access the Site;
- (d) while the farmland area accounts for about 57% of the Site (about 385m²), only about 18% of the Site (about 123.3m²) will be filled up by not more than 0.2m and hard-paved for the site formation of proposed structures. The footpath, landscaping area and water reserve area for existing raw water mains within the Site will be on soil ground. The applicant will reinstate the Site to a condition suitable for agricultural use after the expiry of planning approval; and
- (e) the proposed use is considered not incompatible with the surrounding land use and adverse impact is not anticipated. It will not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. FSIs proposal will be provided upon planning approval to mitigate any adverse impact arising from the development. No tree felling is involved in the Site.

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 Town Planning Ordinance (TPB PG-No. 31A) by posting site notice at the Site and sending notice to the Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any active planning enforcement action.

5. Previous Application

5.1 The Site is the subject of a previous application (No. A/YL-SK/235) for proposed temporary place of recreation, sports and culture (hobby farm) submitted by the current applicant for a period of 3 years, which was approved by the Committee in 2018. Details and location of the application are summarised at **Appendix II** and shown on **Plan A-1** respectively.

5.2 The above application was approved by the Committee on 4.5.2018 mainly on the

considerations that the development was not incompatible with the surrounding land uses; it was unlikely to generate significant environmental nuisance; relevant Government departments had no adverse comment on the application; and the technical concerns/requirements of the relevant Government departments could be addressed by the approval conditions. However, the planning approval was revoked on 4.8.2020 due to non-compliance with approval conditions in relation to the submission and implementation of tree preservation and landscape proposal, as well as the implementation of drainage proposal and FSI's proposal.

6. Similar Applications

- 6.1 There are three similar applications (Nos. A/YL-SK/241, 244 and 291) for temporary place of recreation, sports or culture (hobby farm) use (with animal hospice services establishment for application No. A/YL-SK/291) all for a period of 3 years within the same "AGR" zone on the OZP. Details of these applications are summarised at **Appendix III** and its location is shown on **Plan A-1** respectively.
- 6.2 The first two applications were approved by the Committee in 2018 on the similar considerations that the development would not jeopardize the long-term planning intention of the "AGR" zone; it was not incompatible with the surrounding environment; it would unlikely generate significant environmental nuisance; relevant Government departments had no adverse comment on the application; and the technical concerns/requirements of the relevant Government departments could be addressed by the approval conditions. For the third application for temporary hobby farm with animal hospice services establishment use, it was rejected by the Committee in 2020 mainly on the grounds that the animal hospice services establishment use is not in line with the planning intention of the "AGR" zone and was not incompatible with the surrounding environment. The above considerations are not relevant to the current application.

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) vacant and mostly covered with weeds and a few trees; and
 - (b) accessible from Kam Sheung Road via Ko Sheung Road and Nam Hing West Road.
- 7.2 The surrounding areas are predominantly rural in character mainly occupied by active/fallow agricultural land, few residential structures/dwellings and vacant/unused land:

- (a) to its immediate north is Nam Hing West Road, to its further north across the road and a drainage channel are mainly active/fallow agricultural land with a few scattered residential structures/dwellings and vacant land;
- (b) to its east, south and west are mainly active/fallow agricultural land with some residential structures/dwellings and unused land;

8. Planning Intention

- 8.1 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.
- 8.2 As filling of land/pond may cause adverse drainage and environmental impacts on the adjacent areas, planning permission from the Board is required for such activities.

9. Comments from Relevant Government Departments

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

Land Administration

- 9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
 - (a) the Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government; and
 - (b) should planning approval be given to the application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularise any irregularities on the Site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Application for any of the above will be considered by LandsD acting in the capacity of the 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 fees, as may be imposed by LandsD.

Traffic

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

having regard to the FI (**Appendix Ia**), he has no comment on the application considering that there is neither parking provision or vehicular access to the Site and the induced traffic impact is minimal.

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 for any access (including the bridge structure) connecting the Site and Nam Hing West Road; and
- (b) adequate drainage measures should be provided at the Site to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) he has no objection to the application from environmental planning perspective provided that the applicant 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 any environmental nuisance to nearby sensitive receivers;
- (b) the applicant is 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; (ii) provide adequate supporting infrastructure/facilities for proper collection, treatment and disposal of waste/wastewater generated from the proposed use; and (iii) not to use construction materials for filling of land. His detailed comments are at **Appendix V**; and
- (c) there is no environmental complaint in relation to the Site received by DEP in the past three years.

Landscape

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

- (a) having regard to the FI (**Appendix Ia**), he has no objection in principle to the application from landscape planning perspective

given that all proposed structures and land filling area will not conflict with the five existing trees (**Drawing A-3 and Plan A-4b**);

- (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, farmlands, temporary structures and village houses. The proposed use is considered not incompatible to the surrounding environment; and
- (c) referring to his site record dated 10.2.2021, the Site is vacant and covered with wild grasses. Five existing common trees of *Litchi chinensis* (荔枝) in good condition are found within the Site (**Drawing A-3 and Plan A-4b**). According to the applicant's submission, the proposed development would not cause tree felling and the existing trees within the Site would be maintained by the applicant. Significant adverse impact on landscape resources arising from the proposed development is not anticipated.

Agriculture and Nature Conservation

9.1.6 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 for the proposed use and land filling from agricultural point of view given that agricultural activities are involved in the proposed use and the Site will be reinstated upon the expiry of the planning permission;
- (b) there are mitigation planting areas for the Kam Tin Main Drainage Channel project (**Plan A-2**) along the north boundary of the Site which are currently maintained by his department. Should the application be approved, the applicant shall be advised to avoid disturbing the mitigation planting areas in order to preserve and protect the vegetation therein; and
- (c) he has no comment on the application from nature conservation point of view.

Fire Safety

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

- (a) he has no objection in principle to the application subject to FSIs being provided to his satisfaction;
- (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his

department for approval. The applicant should also be advised on the following points:

- (i) the layout plan should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans or referral from relevant licensing authority respectively.

Building Matters

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

- (a) before any new building works (including containers / open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorised building works (UBW) under BO. An Authorised Person should be appointed as the coordinator for the proposed building works in accordance with BO;
- (b) 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 constructed as an acceptance of any existing building works or UBW on the Site under BO; and
- (c) his detailed comments are at **Appendix V**.

Drainage

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

- (a) having regarded the FI (**Appendix Ia**), he has no objection in principle to the proposed use from the public drainage point of view and had no adverse comment on the submitted drainage proposal; and
- (b) his detailed comments are at **Appendix V**.

Water Supply

9.1.10 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

he has no objection to the application and his detailed comments are at **Appendix V**.

District Officer's Comment

9.1.11 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 comment on or objection to the application:

- (a) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD);
- (b) Commissioner of Police (C of P); and
- (c) Director of Electrical and Mechanical Service (DEMS).

10. Public Comments Received During Statutory Publication Period

On 26.1.2021, the application was published for public inspection. During the three-week statutory publication period, a total of 26 public comments (**Appendix IV**) were received. Of which, 25 public comments were submitted in standard letter format by a Yuen Long District Councilor, two Indigenous Inhabitant Representatives and Resident Representative of Sheung Tsuen, Chairperson and Vice-chairperson of Sheung Tsuen Village Committee and 19 local villagers, objecting to the proposed development mainly on the grounds that it would result in environmental nuisance and traffic problems thereby affecting safety and living environment of the villagers; and it is incompatible with the surrounding environment. The remaining public comment from an individual who mainly expressed views mainly on the impact to local food supplies under the existing agricultural policy.

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 5 years, with filling of land at a portion of the Site (about 18%) (**Drawing A-2**) by not more than 0.2m for the proposed structures. The planning intention of the "AGR" zone is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposed, and to retain fallow arable land with good potential for rehabilitation

for cultivation and other agricultural purposes. The proposed use is generally not in conflict with the planning intention of the “AGR” zone, and about 57% of the Site (about 385m²) will be used as farmland. DAFC has no strong view to the application from the agricultural point of view. It is considered that approval of the application on a temporary basis for a period of 5 years would not frustrate the long-term planning intention of the “AGR” zone.

- 11.2 The proposed hobby farm with only three 1 to 2 storey structures with a total floor area of 177.3m² is not incompatible with the surrounding areas which are predominantly rural in character mainly occupied by active/fallow agricultural land and residential structures/dwellings (**Plan A-2**). DEP, CE/MN of DSD and CTP/UD&L of PlanD have no objection to/no comment on the application from traffic, environmental, drainage and landscape 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. Moreover, the technical requirements of CTP/UD&L of PlanD, D of FS and CE/MN of DSD could be addressed by appropriate approval conditions in paragraph 12.2 (c) to (g) below. Besides, the applicant will be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to alleviate any potential environmental impact.
- 11.3 There are three similar applications for hobby farm uses within the same “AGR” zone on the OZP as detailed in paragraph 7 above (**Plan A-1**). Two of them were approved with conditions for a period of 3 years by the Committee in 2018. The considerations for approval of these two applications are applicable to the current application. The remaining application (No. A/YL-SK/291) for hobby farm and animal hospice services establishment was rejected by the Committee in 2020 was subject to different circumstances and is not relevant to the current application.
- 11.4 The Site is the subject to a previous application (No. A/YL-SK/235) approved with conditions for a period of 3 years. The planning approval was revoked due to non-compliance with relevant approval conditions in relation to submission and/or implementation of drainage, FSIs and tree preservation/landscape proposals. To support the application, the current applicant has submitted drainage, FSIs and tree preservation/landscape proposals (**Appendix Ia**). Having regard to the above and taking into account that there is no significant change in planning circumstances, it is considered that the current application could be given sympathetic consideration. Should the application be approved by the Committee, shorter compliance periods are recommended with a view to closely monitoring the progress on compliance with approval conditions. Furthermore, the applicant should be advised that if there is further non-compliance with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 11.5 Regarding the 26 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 assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, 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 5 years until 12.3.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, 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 during the planning approval period;
- (c) all existing trees within the Site shall be maintained satisfactorily at all times during the planning approval;
- (d) the submission of revised fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 12.6.2021;
- (e) in relation to (e) above, the implementation of fire service installations 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;
- (f) the implementation of accepted 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;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) if any of the above planning conditions (a), (b), (c), or (g) 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
- (i) if any of the above planning conditions (d), (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 V**.

- 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 applicant.

14. Attachments

Appendix I	Application Form with Attachments received on 19.1.2021
Appendix Ia	Further Information received on 3.3.2021
Appendix II	Previous Application
Appendix III	Similar Applications
Appendix IV	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Paving Ratio Plan
Drawing A-3	Landscape Plan

Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2021**