

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/313

<u>Applicant</u>	: Mr. CHOI Wai Nam represented by Metro Planning & Development Company Limited
<u>Site</u>	: Lot 1593 (Part) in D.D. 112, Yuen Kong San Tsuen, Shek Kong, Yuen Long, New Territories
<u>Site Area</u>	: About 230m 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 or Culture (Hobby Farm) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks 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 walled, vacant and partly hard-paved (**Plans A-2 to A-4**).
- 1.2 According to the applicant, there will be two single-storey structures of not more than 4 m in height with a total floor area of about 84m² for electricity meter room, toilet, rain shelter and storage of farm tools and fertilisers. The remaining part of the Site (about 125m² or about 54% of the Site) will be used as farmland area. No filling of land is required. The operation hours will be between 9:00a.m. and 7:00p.m. daily (including public holidays). The Site is accessible via a local access road branching off from Kam Sheung Road. One private car parking space will be provided on-site. The vehicular access plan and layout plan submitted by the applicant are at **Drawings A-1** and **A-2** respectively.
- 1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with Attachment received on 19.7.2021 **(Appendix I)**
- (b) Further information (FI) received on 12.8.2021 **(Appendix Ia)**
(exempted from publication)
- (c) FI received on 2.9.2021 *(exempted from publication)* **(Appendix Ib)**

2. Justifications from the Applicant

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

- (a) the proposed hobby farm will open to the general public and allow them to experience the pleasure of cultivation. About 54% of the Site will be used as farmland, while the remaining area and the structures erected on-site would be used for operational needs. The entire Site will not be paved. The existing hard-paved area near the ingress/egress will be unpaved should the application approved by the Board. No filling of land is proposed at the Site;
- (b) the proposed use is a Column 2 use within the “AGR” zone and would retain arable farmland for agricultural purpose. The nature, layout, form and scale of the hobby farm are compatible with the surrounding environment. Furthermore, the proposed use is only temporary in nature. The application will not frustrate the long-term planning intention of the “AGR” zone;
- (c) similar applications (e.g. Nos. A/YL-SK/229, 235 and 241) at the “AGR” zones within the same OZP have been approved by the Board before. The approval of this application would not cause undesirable precedents;
- (d) a maximum of 4 visitors would be allowed at the same time, and there would only be one staff member working on-site. The parking space on-site would be reserved solely for the visitors as the staff member lives in the house adjacent to the Site. No adverse traffic impact is envisaged; and
- (e) the proposed development will not create significant adverse environmental and drainage impact. There will be no operation between 7:00p.m. and 9:00a.m., and no public announcement system will be used.

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 (the Ordinance) (TPB PG-No. 31A) by posting site notice at the Site and sending notice to the Pat Heung Rural Committee. 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**

There is no previous application in respect of the Site.

6. **Similar Applications**

6.1 There are three similar applications (Nos. A/YL-SK/229, 261 and 283) for proposed temporary place of recreation, sports or culture (hobby farm) use within the same “AGR” zone on the OZP. The first similar application was for a period of 3 years without filling of land while the last two were for a period of 5 years with filling of land. Details of these applications are summarised at **Appendix II** and the locations are shown on **Plan A-1**.

6.2 The three similar applications were approved with conditions by the Committee from 2017 to 2020 on similar considerations that the development would not frustrate the long-term planning intention of the “AGR” zone; it was not incompatible with the surrounding environment; it would unlikely generate significant adverse environmental, traffic and drainage impacts; 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 of Application No. A/YL-SK/229 was revoked on 10.2.2019 due to non-compliance with 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 and partly hard-paved; and
- (b) accessible via a local access road branching off from Kam Sheung Road.

7.2 The surrounding areas are predominantly rural in character and intermixed with domestic dwellings/structures, active/fallow farmland and vacant land (**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 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 an Old Schedule Agricultural Lot 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 planning 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-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. Applications for any of the above will be considered by LandsD acting in the capacity as 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 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 (**Appendices Ia and Ib**), he has no comment on the application from traffic engineering perspective;
- (b) should the application be approved, approval conditions of 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 in the planning permission; and
- (c) the Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the 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 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;
- (b) the applicant is advised (i) to follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise any potential environmental nuisance; (ii) that no public announcement system or any form of audio amplification system is allowed to be used on the Site at any time during the planning approval period, as proposed by the applicant; (iii) to provide adequate supporting infrastructure/facilities for proper collection, treatment and disposal of waste/wastewater generated from the proposed use. If septic tank and soakaway system will be used in case of unavailability of public sewer, its design and construction should follow the requirements of EPD’s Practice Note for Professional person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” including percolation test; and (iv) that it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances; and
- (c) there is no environmental complaint in relation to the Site received 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) he has no objection to the application from the landscape planning perspective;
- (b) the Site is located to the further southwest of Ngau Keng. Based on aerial photo of 2020, the Site is located in an area of rural inland plains landscape character surrounded by temporary structures, vegetated areas and farmlands. With reference to the site photos taken on 27.7.2021, the Site is paved and vacant, no sensitive landscape resource is observed within the Site. Hence, significant adverse landscape impact arising from the proposed development is not anticipated; and

- (c) according to record, a planning application (No. A/YL/SK/261) (**Plan A-1**) to the further northeast of the Site for the same use within the same “AGR” zone was approved by the Board in 2019. Further to the above, with reference to the layout plan provided by the applicant, the proposed development only involves two single-storey structures with heights not exceeding 4m, and majority of the Site is proposed to be used as hobby farm. The application is considered not entirely incompatible with its surrounding environment.

Agriculture and Nature Conservation

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

- (a) having regard to the FI (**Appendix Ia**), he has no strong view against the application for proposed hobby farm use from agricultural point of view on the understanding that agricultural activities are involved and the Site will be reinstated upon the expiry of the planning permission; and
- (b) noting that the Site is disturbed in nature, he has no comment on the application from nature conservation perspective.

Building Matters

9.1.7 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 (BA) should be obtained, otherwise they are unauthorised building works (UBW) under the Buildings Ordinance (BO). An Authorised Person should be appointed as the coordinator for the proposed building works in accordance with the 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 construed as an acceptance of any existing building works or UBW on the Site under the BO; and
- (c) his detailed comments are at **Appendix III**.

Drainage

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

- (a) he has no objection in-principle to the proposed development and no adverse comment on the submitted drainage proposal;
- (b) should the Board consider that the application is acceptable from planning point of view, conditions should be stipulated in the approval letter requiring the applicant to implement and maintain the agreed drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board; and
- (c) his detailed comments are at **Appendix III**.

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 FSIs being provided to his satisfaction;
- (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs 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 FSIs to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), 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 comment 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) Commissioner of Police (C of P);
- (c) Director of Electrical and Mechanical Services (DEMS); and
- (d) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD).

10. Public Comment Received During Statutory Publication Period

On 27.7.2021, the application was published for public inspection. During the three-week statutory publication period, which ended on 17.8.2021, no public comment was received.

11. Planning Considerations and Assessments

- 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 (**Drawing A-2**). The planning intention of the “AGR” zone 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. The proposed use is generally not in conflict with the planning intention of the “AGR” zone, and majority of the Site (about 125m², equivalent to about 54% of the Site) will be used as farmland. DAFC has no strong view against 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 two single-storey structures with a total non-domestic floor area of 84m² is considered not incompatible with the surrounding environment which is predominantly rural in character intermixed with active/fallow farmland and domestic dwellings/structures (**Plan A-2**). C for T, DEP, CE/MN of DSD and CTP/UD&L of PlanD have no objection to 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 paragraphs 12.2 (a) and (b) below. The technical requirements of C for T, D of FS and CE/MN of DSD could be addressed by appropriate approval conditions in paragraphs 12.2 (c) to (h). Besides, the applicant will 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 are three similar applications for hobby farm uses within the same “AGR” zone, which were approved with conditions by the Committee from 2017 to 2021. The Committee’s considerations on the three similar applications as detailed in paragraph 6 are generally applicable to the current application, and approval of this application is in line with the previous decisions of the Committee.
- 11.4 No public comment was received during the statutory publication period.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department has no objection to the application.
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- 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 10.9.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00p.m. and 9:00a.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, as proposed by the applicant, is allowed to be used on the Site at any time during the planning approval period;
- (c) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the implementation of the accepted 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 10.6.2022;
- (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 a fire service installation 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 10.3.2022;
- (h) in relation to (g) above, the implementation of the fire service installation 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 10.6.2022;
- (i) if any of the above planning condition (a), (b), (c), (d) or (f) 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;
- (j) if any of the above planning condition (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 III**.

- 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 received on 19.7.2021
Appendix Ia	Further information (FI) received on 12.8.2021
Appendix Ib	FI received on 2.9.2021
Appendix II	Similar Applications
Appendix III	Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos