

RNTPC Paper No. A/YL-SK/368A
For Consideration by the
Rural and New Town
Planning Committee
on 20.9.2024

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/368

Applicant : 鄧司行女士

Site : Lot 387 (Part) in D.D. 112, Lin Fa Tei, Pat Heung, Yuen Long

Site Area : 815m² (about)

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9

Zoning : “Agriculture” (“AGR”) (93%)
“Village Type Development” (“V”) (7%)
[restricted to a maximum building height of 3 storeys (8.23m)]

Application : Temporary Place of Recreation, Sports or Culture with Ancillary Office
for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary place of recreation, sports or culture with ancillary office for a period of three years and filling of land at the application site (the Site), which falls within area mainly zoned “AGR” with a small portion zoned “V” on the approved Shek Kong OZP No. S/YL-SK/9 (**Plan A-1**). According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture’ is a Column 2 use for the “V” zone which requires planning permission from the Town Planning Board (the Board). Whilst the proposed use is neither a Column 1 nor Column 2 use for the “AGR” zone, 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 Board. Besides, filling of land within “AGR” and “V” zones also requires planning permission from the Board. The Site is fenced off, entirely hard-paved with concrete and erected with a structure, and is currently used for the applied use without valid planning permission (**Plans A-3 to A-4b**).
- 1.2 The Site is accessible from Kam Sheung Road via a local track with an ingress/egress at the southern part of the Site (**Plans A-1 to A-3**). According to the applicant, the applied use comprises a single-storey structure with a total floor area of about 44.6m² and a building height of not more than 2.6m for a leisure and

recreational venue for families and their dogs with ancillary office. The applied use will involve not more than 20 visitors at the same time. No audio amplifier and public announcement systems will be used. Four private car parking spaces will also be provided within the Site. The applicant also applies for regularisation of filling of land for the entire Site with concrete of about 0.1m in depth (**Drawing A-2**). The operation hours are from 12:00 p.m. to 8:00 p.m. from Saturdays to Sundays and public holidays. The site layout plan and land filling 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 supplementary information (**Appendix I**) received on 11.4.2024
- (b) Further Information (FI) received on 25.7.2024* (**Appendix Ia**)

** accepted and exempted from publication and recounting requirements*

1.4 On 7.6.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for two months as requested by the applicant

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the application form, supplementary information and FI at **Appendices I to Ia** and can be summarised as follows:

- (a) The applied use is intended to provide a leisure and recreational venue for families and their dogs.
- (b) The applied use will involve not more than 20 visitors at the same time.
- (c) The Site has been provided with planting works to improve the landscape environment.
- (d) No audio amplifier and public announcement systems will be used. Hence, the applied use would not create significant nuisance to the residential areas.
- (e) There will be insignificant traffic, drainage and environmental impacts. If the application is approved by the Committee, the applicant will comply with the relevant approval conditions.

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. 31B) by posting site notices 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 currently not subject to any active planning enforcement action. Subject to collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be undertaken.

5. **Previous Application**

There is no previous application covering the Site.

6. **Similar Applications**

6.1 There are seven similar applications (No. A/YL-SK/294, 299, 306, 314, 322, 356 and 374), involving six sites, for various temporary place of recreation, sports or culture (hobby farm) uses (including filling of land) within the same "AGR" zone in the vicinity of the Site in the past five years. Five of the applications (No. A/YL-SK/294, 299, 306, 356 and 374) were approved with conditions by the Committee between January 2021 and March 2024, mainly on the considerations that the approval of the application on a temporary basis would not frustrate the long-term planning intention of "AGR" zone; the proposed use was not incompatible with the surrounding land uses; and relevant government departments consulted in general had no adverse comment on the application or their technical concerns could be addressed by relevant approval conditions. The remaining two applications (No. A/YL-SK/314 and 322) covering the same site were rejected by the Committee mainly on the ground that the application site was in close proximity to Shek Kong Barracks and approval of the application might result in security concerns.

6.2 Details of these applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) fenced off, entirely hard-paved with concrete and erected with a structure;
- (b) currently used for the applied use without valid planning permission; and
- (c) accessible from Kam Sheung Road via a local track.

7.2 The surrounding areas are rural in character comprising mainly residential structures, scattered temporary structures for storage and motor service uses, active farmlands, plant nursery, vacant lands and tree groups.

8. **Planning Intentions**

- 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 According to the Explanatory Statement of the OZP for the “AGR” zone, as filling of land/pond may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.
- 8.3 The planning intention of the “V” zone is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

9. **Comments from Relevant Government Departments**

- 9.1 Apart from the government department as set out in 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 and Nature Conservation

- 9.2.1 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):
 - (a) he does not support the application from agricultural perspective as the Site possesses potential agricultural rehabilitation;
 - (b) the Site falls within the “AGR” and “V” zones and is generally vacant with some structures. The agricultural activities are active in the vicinity, and agricultural infrastructures 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.; and
 - (c) no comment from nature conservation perspective.

10. Public Comments Received During Statutory Publication Period

The application was published for public inspection on 23.4.2024. During the statutory public inspection period, two public comments were received from an individual and Kadoorie Farm & Botanic Garden Corporation raising concerns on the type of recreational use, whether the applied use is in line with the planning intention of “AGR” zone, and any enforcement action has been taken against the applied use at the Site prior to planning approval (**Appendices V-1 to V-2**).

11. Planning Considerations and Assessments

- 11.1 The applicant seeks planning permission for temporary place of recreation, sports or culture with ancillary office for a period of 3 years and regularisation of filling of land at the Site zoned “AGR” (93%) and “V” (7%) (**Plan A-1**). 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 applied use is not in line with the planning intention of the “AGR” zone, and DAFC does not support the application from agricultural perspective. The applied use is also not entirely in line with the planning intention of the “V” zone, which is to reflect existing recognized and other villages and provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within the “V” zone is primarily intended for development of Small Houses by indigenous villagers, and other commercial, community and recreational uses may be permitted on application to the Board. Taking into account the planning assessments below, the applied use on a temporary basis of three years with associated filling of land could be tolerated.
- 11.2 Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department and Director of Environmental Protection have no objection to the application from drainage and environment perspectives respectively. An approval condition requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.
- 11.3 The applied use is considered not incompatible with the surrounding uses which are rural in character comprising mainly residential structures, scattered temporary structures for storage and motor service uses, active farmlands, plant nursery, vacant lands and tree groups. The Chief Town Planner/Urban Design and Landscape of Planning Department has no objection to the application as she considers that the applied use is not incompatible with the surrounding landscape setting and significant impact on the existing landscape resources within the Site is not anticipated. Besides, the District Lands Officer/ Yuen Long of Lands Department (DLO/YL, LandsD) also advises that there is no Small House application approved or under processing at the Site.
- 11.4 Other relevant government departments consulted, including the Commissioner for Transport and Director of Fire Services have no objection to or no adverse

comment on the application from traffic and fire safety perspectives respectively. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised to follow the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' to minimise any potential environmental nuisance caused by the applied use on the surrounding areas.

- 11.5 There are five previously approved similar applications for various temporary place of recreation, sports or culture (hobby farm) uses (including filling of land) within the same "AGR" zone in the vicinity of the Site in the past five years as mentioned in paragraph 6.1 above. Approving the current application is in line with the Committee's previous decisions.
- 11.6 Regarding the public comments raising concerns on the application as stated in paragraph 10 above, the departmental comments and planning considerations 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 mentioned in paragraph 10 above, the Planning Department considers that the applied use 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 20.9.2027. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission of a 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 20.3.2025;
- (b) in relation to (a) 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 or of the Town Planning Board by 20.6.2025;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) 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 20.3.2025;
- (e) in relation to (d) 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 20.6.2025;

- (f) if the above planning condition (c) 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;
- (g) if any of the above planning condition (a), (b), (d) or (e) 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
- (h) upon the expiry of the planning permission, the reinstatement of the “AGR” portion 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 applied use with filling of land is not in line with the planning intentions of the “AGR” and “V” zones. 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, whilst the planning intention of the “V” zone is to reflect existing recognized and other villages and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects respectively. There is no strong planning justification given in the submission for a departure from the planning intentions, 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 11.4.2024

Appendix Ia

FI received on 25.7.2024

Appendix II	Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendices V-1 to V-2	Public Comments
Drawing A-1	Layout Plan
Drawing A-2	Land Filling Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2024**