

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-SK/392**

**Applicant** : Sky Views Holdings Limited represented by Allgain Land Planning Limited

**Site** : Lot 443 (Part) in D.D. 112 and Adjoining Government Land (GL), Shek Kong, Yuen Long

**Site Area** : About 260m<sup>2</sup> (including GL of about 8m<sup>2</sup> (3.1%))

**Lease** : Block Government Lease (demised for agricultural use)

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

**Zoning** : “Agriculture” (“AGR”)

**Application** : Proposed Temporary Shop and Services for a Period of 3 Years and Associated Filling of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary shop and services for a period of three years and associated filling of land at the application site (the Site) which falls within an area zoned “AGR” on the OZP (**Plan A-1**). 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 Town Planning Board (the Board). Filling of land in “AGR” zone also requires planning permission from the Board. The Site is fenced-off, partially paved and vacant, and erected with a few vacant temporary structures (**Plans A-2 and A-4**).
- 1.2 The Site is accessible from a local access leading from Nam Hing West Road (**Plan A-2**), with an ingress/egress (about 6m wide) at the eastern part of the Site. According to the applicant, the proposed use comprises one two-storey structure (about 9m in height for shop and services use) and one single-storey structure (about 3m in height for portable toilet), with a total floor area of about 88m<sup>2</sup> (**Drawing A-1**). The applicant intends to provide a real estate agency at the Site to serve the local community. No parking space and loading/unloading space will be provided within the Site. The operation hours are from 9:00 a.m. to 7:00 p.m. daily, including public holidays. The applicant also applies for filling of land for the entire Site with concrete of not more than 0.2m in depth (from about 23.7mPD to about 23.9mPD) (**Drawing A-2**).

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

- |  |                      |
|--|----------------------|
| (a) Application Form received on 14.10.2024                      | <b>(Appendix I)</b>  |
| (b) Further Information (FI) received on 23.10.2024 <sup>#</sup> | <b>(Appendix Ia)</b> |
| (c) FI received on 10.12.2024*                                   | <b>(Appendix Ib)</b> |
- <sup>#</sup> *accepted but not exempted from publication and recounting requirements*  
\* *accepted and exempted from publication and recounting requirements*

## 2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs at **Appendices I to Ib**. They can be summarised as follows:

- (a) While the Site is zoned “AGR”, there has been no active agricultural activity for many years. The proposed use of a real estate agency providing leasing and sale services for nearby villages could make optimal use of the land and serve the residents nearby.
- (b) The Site is surrounded by temporary structures and squatters. There are similar applications for shop and services approved by the Board in the same “AGR” zone. The proposed temporary use would not jeopardise the long-term planning intention of the “AGR” zone.
- (c) Neon lights signboard will not be installed and there will not be any noise disturbance from the proposed use at night. Also, the proposed use will not involve any felling of trees. Significant adverse environmental, noise and visual impacts on the surrounding area and neighbourhood are not anticipated.
- (d) The applicant will follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ (CoP) issued by the Environmental Protection Department (EPD) to minimise any potential environmental nuisance on the surrounding area.
- (e) If the application is approved, the applicant will submit short term waiver (STW) and short term tenancy (STT) applications to the Lands Department (LandsD) for the proposed use. Also, the applicant undertakes to reinstate the Site upon expiry of the planning permission.

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

The applicant is the sole “current land owner”. 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**

The Site is the subject of a previous application (No. A/YL-SK/226) for proposed temporary animal boarding establishment for a period of three years submitted by a different applicant, which was rejected by the Rural and New Town Planning Committee (the Committee) of the

Board in 2017. Considerations of this previous application are not relevant to the current application which involves a different use. Details of the previous application are summarised at **Appendix II** and its location is shown on **Plan A-1**.

## **6. Similar Applications**

- 6.1 During the past five years, there are two similar applications (No. A/YL-SK/318 and 348) for temporary shop and services use with ancillary facilities involving the same site within the same “AGR” zone in the vicinity of the Site. These two applications were approved with conditions by the Committee in 2021 and 2023 respectively, mainly on the considerations that the proposed use would not frustrate the long-term planning intention; the proposed use was considered not incompatible with the surrounding land uses; and the relevant government departments consulted generally had no adverse comment or their technical concerns could be addressed by approval conditions.
- 6.2 Details of the similar applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

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

- 7.1 The Site is:
- (a) fenced-off, partially paved and vacant, and erected with a few vacant temporary structures; and
  - (b) accessible from the east via a local access leading from Nam Hing West Road.
- 7.2 The surrounding areas are rural in character predominated by active and fallow agricultural land, intermixing with plant nursery, storage yard, hobby farm and residential structures. A nullah is located to the northeast of the Site.

## **8. Planning Intention**

- 8.1 The planning intention of the “AGR” zone is 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, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities within the “AGR” zone.

## **9. Comments from Relevant Government Departments**

- 9.1 Apart from the government departments as set out in paragraph 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 departments do not support or have adverse comments on the application:

**Land Administration**

- 9.2.1 Comments of the District Lands Officer/Yuen Long of LandsD (DLO/YL of LandsD):

- (a) has adverse comment on the application;
- (b) the Site comprises GL and Old Schedule Agricultural Lot 443 in D.D. 112 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;
- (c) LandsD has reservation on the planning application since there are unauthorized structure(s) and uses on the private lot (which forms part of the Site) which is already subject to lease enforcement actions according to case priority. The lot owner(s) should rectify/apply for regularization on the lease breaches as demanded by LandsD;
- (d) the GL within the Site (about 8m<sup>2</sup> as mentioned in the application form) has been unlawfully occupied without any permission. Any occupation of GL without Government's prior approval is an offence under Cap. 28. His office reserves the rights to take necessary land control action against the unlawful occupation of Government land without further notice; and
- (e) if the planning application is approved, the lot owner(s) shall apply to his office for a STW and STT to permit the structure(s) erected within the said private lot and the occupation of the GL. The applications for STW and STT will be considered by the Government in its capacity as a landlord and there is no guarantee that they will be approved. The STW and STT, if approved, will be subject to such terms and conditions including the payment of waiver fee, rent and administrative fee as considered appropriate by LandsD. Besides, given the proposed use is temporary in nature, only erection of temporary structure(s) will be considered.

**Agriculture and Nature Conservation**

- 9.2.2 Comments of the Director of Agriculture, Fisheries and Conservation:

- (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
- (b) the Site falls within the "AGR" zone 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 on the planning application from nature conservation perspective as the majority of the Site has been paved and no tree felling would be involved in the proposed use.

## **10. Public Comment Received During Statutory Publication Periods**

On 22.10.2024 and 1.11.2024, the application was published for public inspection. During the statutory public inspection periods, a total of five public comments were received (**Appendix V**). Three of the comments are from the indigenous inhabitant representatives of Pat Heung Lin Fa Tei, Pat Heung Rural Committee and an individual raising objection mainly on the grounds that the proposed use would cause adverse traffic and environmental impacts to the neighborhood, and adverse ecological impact to the birds' habitats; increase the risk of flooding; and involves felling of trees near the existing nullah. The remaining two public comments are from Kadoorie Farm and Botanic Garden and an individual raising concerns that the proposed use is not in line with the planning intention of "AGR" zone; there are agricultural activities in the vicinity; and the demand for the proposed use is in doubt.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary shop and services for a period of three years and associated filling of land at the Site zoned "AGR" (**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 proposed use is not in line with the planning intention of the "AGR" zone and DAFC does not support the application from agricultural perspective. Nonetheless, according to the applicant, the proposed use could make optimal use of the Site and serve the residents nearby. In view of the above and taking into account the planning assessments below, it is considered that the approval of the application on a temporary basis for a period of three years could be tolerated.
- 11.2 The applicant also applies for filling of land for the entire Site with concrete of not more than 0.2m in depth. Filling of land in the "AGR" zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding 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 environmental perspectives respectively. An approval condition requiring reinstatement of the Site to an amenity area upon expiry of the planning permission is recommended should the Committee decide to approve the application.
- 11.3 The proposed use is considered not incompatible with the surrounding areas which are predominated by active and fallow agricultural land, plant nursery, storage yard, hobby farm and residential structures (**Plan A-2**). The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) has no adverse comment on the application from landscape planning perspective and considers that no significant adverse impact on the existing landscape resources arising from the proposed use is anticipated. Besides, DAFC has no comment on the application from nature conservation perspective as the

majority of the Site has been paved and no tree felling would be involved in the proposed use.

- 11.4 Regarding DLO/YL of LandsD's concern on the unauthorised structure(s) and uses on the concerned lot and the illegal occupation of GL, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application. 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. To address the technical requirements of concerned departments, relevant approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised to follow the revised CoP issued by the EPD to minimise any potential environmental nuisance by the proposed use on the surrounding areas.
- 11.5 There are two similar applications approved for shop and services use within the same "AGR" zone in the vicinity of the Site in the past five years as mentioned in paragraph 6 above. Approval of the current application is in line with the Committee's previous decisions.
- 11.6 Regarding the public comments mentioned in paragraph 10, the departmental comments and planning assessments 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, PlanD considers that the proposed 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 20.12.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval conditions

- (a) 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 20.9.2025;
- (b) in relation to (a) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (c) 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 20.6.2025;
- (d) in relation to (c) 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 20.9.2025;
- (e) if the above planning condition (b) 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

- (f) if any of the above planning condition (a), (c) or (d) 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;
- (g) upon 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 attached 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 use with associated filling of land 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.

### **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 period of which the permission should be valid on a temporary basis.
- 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**

<b>Appendix I</b>	Application Form received on 14.10.2024
<b>Appendix Ia</b>	FI received on 23.10.2024
<b>Appendix Ib</b>	FI received on 10.12.2024
<b>Appendix II</b>	Previous and Similar Applications
<b>Appendix III</b>	Government Departments' General Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Appendix V</b>	Public Comments
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Land Filling Area Plan
<b>Plan A-1</b>	Location Plan with Similar Applications
<b>Plan A-2</b>	Site Plan

<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
DECEMBER 2024**