

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

**APPLICATION NO. A/YL-ST/626**

<b><u>Applicant</u></b>	: Mr. KO Shun Pang represented by Mr. HUI Kwan Yee
<b><u>Site</u></b>	: Lot 1808 in D.D. 96, Lok Ma Chau, San Tin, Yuen Long
<b><u>Site Area</u></b>	: About 165 m <sup>2</sup>
<b><u>Land Status</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
<b><u>Zoning</u></b>	: “Conservation Area” (“CA”)
<b><u>Application</u></b>	: Proposed Temporary Field Education Centre with Ancillary Shop and Services for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a proposed temporary field education centre with ancillary shop and services use at the application site (the Site) which falls within an area zoned “CA” on the approved San Tin OZP (**Plan A-1**). According to the Notes of the OZP, ‘field study/education/visitor centre’ within the “CA” zone requires planning permission from the Town Planning Board (the Board). The Site is located on the bund at the verge of an existing fish pond with metal frame and grass cover.
- 1.2 According to the applicant, the Site is accessible from a local access connecting to Ha Wan Tsuen East Road (**Plan A-1**). The proposed use includes four 1-storey structures (with height of about 3m-3.66m) comprising a temporary exhibition centre with display boards promoting environmental protection education and solar energy within the Site, a souvenir shop selling pamphlets on the birds and green solar energy and gifts, a store room and a mobile toilet with a total gross floor area (GFA) of about 106.52 m<sup>2</sup>. The proposed field education centre will be operated on a semi self-service basis and only one half-day staff will be working in the Site. The operation hours are from 10:00 a.m. to 6:00 p.m., Tuesday to Sunday, including public holidays. Visitors and site staff will access the Site by public transport or walking via the existing transportation network. No car parking and loading and unloading space will be provided within the Site. The loading/unloading activity will be carried out off-site in the open area to the northeast of the Site adjoining the existing local

access. During construction stage, only light and temporary materials will be used and the construction materials will be transported to the off-site loading and unloading area by light goods vehicle in the morning session once per day and then hand-carried or transported to the Site by hand-trolleys. During operation of the proposed development, supplies materials will be delivered to the Site by light goods vehicle two to three times per week. Construction work at the Site will be carried out between March and June from 11:00 a.m. to 4:45 p.m. daily except for public holidays. Two nos. of *Bauhinia blakeana* (洋紫荊), each with a height of not less than 2.75 m and a soil depth of not less than 1.2 m, will be provided at the respective eastern and western part of the Site. No tree felling will be involved and no existing vegetation on-site will be affected. The plans showing the site layout, loading and unloading and landscape proposal are at **Drawings A-1 to A-3**.

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

- (a) Application Form received on 18.7.2022 and **(Appendix I)** supplementary information received on 21.7.2022
- (b) Further Information (FI) received on 26.10.2022 **(Appendix Ia)** providing response to departmental comments and a traffic route plan #
- (c) FI received on 22.11.2022 providing response to **(Appendix Ib)** departmental comments and a loading and unloading plan #
- (d) FI received on 30.12.2022 providing response to **(Appendix Ic)** departmental comments, a revised loading and unloading plan and landscape proposal #
- (e) FI received on 7.2.2023 providing response to **(Appendix Id)** departmental comments #

# *exempted from publication requirement*

1.4 On 9.9.2022 and 9.12.2022, the Rural and New Town Planning Committee (the Committee) of the Board decided to defer a decision on the application as requested by the applicant to allow time for the applicant to address departmental comments. After the deferrals, the applicant has made a number of FIs as detailed in paragraph 1.3 above. The application is scheduled for consideration by the Committee at this meeting.

## 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 Id**. They can be summarised as follows:

- (a) The Site is vacant and can be put to efficient use for the proposed development which is for field study and education purpose and promotion of environmental protection.

- (b) The proposed use will not involve filling of land/pond or excavation of land.
- (c) The loading/unloading activity will be carried out at the existing open area which is open for use by the public as per the existing condition. There is no blocking of public road and no adverse traffic impact on the transportation network in the locality.
- (d) The proposed use will be operated in a passive manner and will not affect the surrounding fish ponds in terms of light, noise, human disturbance and water pollution. Only small hand-digging tools or equipment will be used, construction materials will be pre-fabricated for assembly on-site to avoid construction works at the Site. The mobile toilet will not be open to public. The wastewater generated from the Site will be disposed of by a waste management contractor.
- (e) The applicant will comply with the conditions and requirements as required by government departments in implementing the proposed development.

**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. Town Planning Board Guidelines**

The Town Planning Board Guidelines for ‘Application for Development within Deep Bay Area under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 12C) are relevant to the application. Relevant extracts of the Guidelines are at **Appendix II**.

**5. Background**

The Site is not subject to active planning enforcement action.

**6. Previous Application**

The Site is not the subject of any previous application.

**7. Similar Application**

There was no similar application for field education centre with ancillary shop and services use within the same “CA” zone.

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

### 8.1 The Site is:

- (a) elongated in shape and located on the bund area at the verge of an existing fish pond with metal frame of one to two storeys in height and grass cover;
- (b) accessible by an existing footpath via a local road which eventually connects to Ha Wan Tsuen Road; and
- (c) partly falling within the Wetland Buffer Area (WBA) (about 123.75 m<sup>2</sup> / about 75% of the Site) with a portion in its northwest falling within the Wetland Conservation Area (WCA) (about 41.25 m<sup>2</sup> / about 25% of the Site) (**Plan A-2**).

### 8.2 The surrounding areas are rural in character comprising fish ponds and woodland:

- (a) the open area to its north, west, south and southwest are fish ponds, grass land, local track/footpath and some residential dwellings;
- (b) along its eastern boundary are the pond bund and an existing culvert; to its further east is an existing access road which is about 923 m away from Ha Wan Tsuen East Road to its further southwest (**Plan A-1**); and
- (c) across the access road to its further south is a woodland with graveyards.

## 9. **Planning Intention**

The planning intention of the “CA” zone is to conserve the ecological value of wetland and fish ponds which form an integral part of the wetland ecosystem in the Deep Bay Area. The “no-net-loss in wetland” principle is adopted for any change in use within this zone. The primary intention is to discourage new development unless it is required to support the conservation of the ecological integrity of the wetland ecosystem or the development is an essential infrastructure project with overriding public interest. Filling of land/pond and excavation of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment. In view of the conservation value of the area within this zone, permission from the Board is required for such activities.

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

10.1 Apart from the government departments as set out in paragraph 10.2 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.

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

**Environment**

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

- (a) With reference to the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (the COP), which is applicable in handling the subject application, the applicant is advised to follow the relevant mitigation measures and requirements in the COP to minimise potential environmental impacts on the surrounding areas if the application is approved.
- (b) As the Site falls within “CA” zone, if the proposed use will involve any earthworks or building works within the Site (a conservation area), it will constitute a designated project under Item Q.1, Part 1 of Schedule 2 of the Environmental Impact Assessment Ordinance (EIAO) and an environmental permit under the EIAO is required before its construction.
- (c) No environmental complaint pertaining to the Site has been received over the past 3 years.

**Nature Conservation**

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

- (a) The Site is adjacent to fish ponds in WCA.
- (b) Having considered the applicant’s submission including the FIs, it is noted that the operation hours for the proposed education centre from 10:00 a.m. to 10:00 p.m. are adjusted from 10:00 a.m. to 6:00 p.m. Based on the information about the construction works required and measures to avoid indirect disturbance impacts (e.g. light, noise, human activities) on the nearby fish ponds during the construction phase and operation phase provided in the FIs, he has no further comment on the application.

**Landscaping**

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

- (a) Based on the aerial photo of 2021, the Site is situated in an area of rural fringe landscape character comprising rivers, fish ponds, hillsides, farmlands, village houses, temporary structures and tree groups. With reference to the site photos in July 2022 and the

site visit on 4.8.2022, the Site is vacant. Some trees of undesirable species (i.e. *Leucaena leucocephala* 銀合歡) and dead trees were found along the southeast periphery outside the Site. Therefore, significant adverse landscape impact on the surrounding landscape resources and character arising from the development is not anticipated.

- (b) Having reviewed the Landscape Proposal at **Drawing A-3** and the applicant's responses as per **Appendix Ic**, she has no further comment from landscape planning perspective.
- (c) Since there is no prominent public frontage surrounding the Site and no significant landscape impact within the Site arising from the proposed use, it is considered not necessary to impose a landscape condition should the application be approved by the Board.
- (d) The advisory comment is at **Appendix IV**.

## **11. Public Comments Received During Statutory Publication Period**

The application was published for public comments on 26.7.2022. During the first three weeks of the statutory publication period which ended on 16.8.2022, nine public comments were received from green groups, including The Conservancy Association, Kadoorie Farm and Botanic Garden Corporation and The Hong Kong Bird Watching Society, and individuals raising objection and concerns on the application that the proposed development is not in line with the planning intention of the "CA" zone and TPB PG-No. 12C; there are insufficient details to justify the development that it can support the conservation of the ecological integrity of the wetland ecosystem or as an essential infrastructure project with overriding public interest; all the potential impacts during construction and operation phase have not been fully evaluated; there are insufficient information on site management and operation (including but not limiting to the estimated visitors and activities to be held on site), land recovery plan upon completion of the proposed temporary use; there are no assessments to identify the source of environmental impacts and mitigation measures; there was previous pond filling at the Site; the Site is close to slope area and has no electricity supply; the development has no parking space provision and will bring in additional traffic and visitors which will adversely affect nearby fish ponds and the roosting ground for the birds, disturb the living environment of nearby residents and cause pollution to the surrounding natural environment which is a conservation area; and the development will set an undesirable precedent for similar application in the area (**Appendix V**).

## **12. Planning Considerations and Assessments**

- 12.1 The application is to seek planning permission for proposed temporary field education centre with ancillary shop and services use at the Site within the "CA" zone for a period of three years. According to the applicant, the proposed field education centre is to be operated in a semi self-service manner and comprises

four 1-storey structures (3m to 3.66m in height) for a temporary exhibition centre promoting environmental protection education and solar energy by display boards, a souvenir shop selling pamphlets and gifts, an ancillary store room and a mobile toilet at the Site.

- 12.2 The planning intention of the “CA” zone is to conserve the ecological value of wetland and fish ponds which form an integral part of the wetland ecosystem in the Deep Bay Area. The primary intention is to discourage new development unless it is required to support the conservation of the ecological integrity of the wetland ecosystem or the development is an essential infrastructure project with overriding public interest. The applicant has not provided sufficient information on how it can serve the purpose of environmental education and is an essential project with overriding public interest within the “CA” zone. As such, the applicant fails to provide strong justification which warrants a departure from the planning intention of “CA” zone, even on a temporary basis.
- 12.3 According to TPB PG-No. 12C, the Site partly falls within the WBA (about 123.75m<sup>2</sup> / 75% of the Site) and partly falls within the WCA (about 41.25m<sup>2</sup> / 25% of the Site). The proposed structures to be erected are mainly on the existing bund area adjoining the fish pond. The applicant also claims that the proposed use will not involve filling of land/pond or excavation of land. DAFC has no comment on the application from conservation point of view. However, the applicant fails to demonstrate how the proposed temporary use could facilitate the environmental education arousing the public understanding of the ecology and nature conservation of the area as specified in TPB PG-No. 12C. As such, it is considered that the proposed temporary use is not in line with TPB PG-No. 12C.
- 12.4 Other government departments have no objection to or no adverse comment on the application on technical aspects.
- 12.5 Regarding the public comments objecting and raising concerns on the application as detailed in paragraph 11, the departmental comments and planning assessments above are relevant.

### **13. Planning Department's Views**

- 13.1 Based on the assessment made in paragraph 12 and having taking into account the public comments mentioned in paragraph 11 above, the Planning Department does not support the application for following reasons:
- (a) the proposed development is not in line with the planning intention of the “CA” zone, which is primarily to conserve the ecological value of wetland and fish ponds which form an integral part of the wetland ecosystem in the Deep Bay Area and discourage new development unless it is required to support the conservation of the ecological integrity of the wetland ecosystem or the development is an essential infrastructure project with overriding public interest. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis; and

- (b) the proposed development is not in line with TPB PG-No. 12C in that the applicant fails to demonstrate how the proposed temporary use could facilitate the environmental education.

13.2 Alternatively, 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 17.2.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. to 10:00 a.m. as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Monday and public holidays, as proposed by the applicant, is allowed on the Site 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 17.8.2023;
- (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 17.11.2023;
- (f) the implemented drainage facilities within the Site shall be maintained at all times during the planning approval period;
- (g) the submission of a fire service installations and water supply for firefighting 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 17.8.2023;
- (h) in relation to (g) above, the provision of fire service installations and water supply for firefighting 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 17.11.2023;
- (i) if any of the above planning conditions (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 immediately without further notice;

- (j) if any of the above planning conditions (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 application 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**.

**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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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.

**15. Attachments**

<b>Appendix I</b>	Application Form received on 18.7.2022 and supplementary information received on 21.7.2022
<b>Appendix Ia</b>	FI received on 26.10.2022
<b>Appendix Ib</b>	FI received on 22.11.2022
<b>Appendix Ic</b>	FI received on 30.12.2022
<b>Appendix Id</b>	FI received on 7.2.2023
<b>Appendix II</b>	Relevant extract of TPB PG-No. 12C
<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>	Site Layout Plan
<b>Drawing A-2</b>	Loading and Unloading Plan
<b>Drawing A-3</b>	Landscape Proposal
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos