

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1136

- Applicant** : Mr. Ting Wai Keung represented by Metro Planning and Development Company Limited
- Site** : Lots 899 (Part), 902 and 942 in D.D. 119, Yuen Long, New Territories
- Site Area** : 1,280m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zoning** : “Green Belt” (“GB”)
- Application** : Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years and Excavation 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 or culture (hobby farm) for a period of 3 years and excavation of land (**Plan A-1**). According to the Notes of the OZP for the “GB” zone, ‘Place of Recreation, Sports or Culture’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). Any excavation and filling of land within the “GB” zone also requires planning permission from the Board. The Site is currently devegetated, filled/excavated, unpaved and vacant (**Plans A-2, A-4a to A-4c**). There is no previous application concerning the Site.
- 1.2 The majority of the Site will be cultivation area for hobby farming (79%), with the remaining area for ancillary structures, two parking spaces, circulation space and surface channel. The proposed excavation of land (of about 55.13m² in area at a depth of about 0.23m) is mainly for the provision of surface U-channel for drainage purpose. No site formation works will take place at the Site. No installation of public announcement systems will be allowed at the Site. A maximum of 8 visitors will visit the Site per day and at any given time. Plans showing the vehicular access, site layout, drainage proposal and extent of excavation submitted by the applicant are at **Drawings A-1 to A-4** respectively.

1.3 The major development parameters of the application are summarised as follows:

Site Area	About 1,280 m ²
Total Floor Area (non-domestic)	About 110 m ²
No. and Height of Structures	2 • for storage, rain shelter and toilet (4m, 1 storey)
No. of Parking Spaces	2 (for private car) (5m x 2.5m each)
No. of Loading/Unloading Space(s)	Nil
Operation Hours	9:00 a.m. to 5:00 p.m. daily

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

- (a) Application Form with annexes and plans received on 9.12.2021 (**Appendix I**)
- (b) Supplementary Information dated 14.12.2021 (**Appendix Ia**)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form (**Appendix I**). They can be summarised as follows:

- (a) The proposal will provide a passive recreational outlet for urban dwellers to experience hobby farming and thus conforms to the planning intention of the “GB” zone and the provisions of the Town Planning Board Guidelines for “Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance” (TPG PG-No.10). The Board has approved similar applications within the same “GB” zone.
- (b) The proposal is compatible with the surrounding vacant land. The proposed commercial operation could help revitalise the Site and utilise land resources that would otherwise be left idle.
- (c) There will be minimal traffic, environmental and drainage impacts arising from the proposal.

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 notice near the Site and sending the notice to the Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Town Planning Board Guidelines**

TPB PG-No. 10 are relevant to this application. The relevant assessment criteria are summarised as follows and detailed at **Appendix II**:

- (a) there is a general presumption against development (other than redevelopment) in “GB” zone. In general, the Board will only be prepared to approve applications for development in the context of requests to rezone to an appropriate use;
- (b) an application for new development in a “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of surrounding areas;
- (c) passive recreational uses which are compatible with the character of surrounding areas may be given sympathetic consideration;
- (d) the design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment; and
- (e) access and parking should not adversely affect existing trees or other natural landscape features. Tree preservation and landscaping proposals should be provided.

5. Background

Recent site inspection conducted by the Central Enforcement & Prosecution Section, Planning Department (CEPS, PlanD) revealed that land filling/excavation activities had taken place at the Site. The land filling/excavation activities on the Site would be subject to planning enforcement action. The Planning Authority had posted warning poster at the Site to warn the responsible parties that unauthorised development (UD) would be subject to planning enforcement action. The Planning Authority will issue warning letter to the concerned land owners.

6. Previous Application

There is no previous planning application concerning the Site.

7. Similar Applications

- 7.1 There are four approved similar applications and two rejected similar applications for various hobby farm/recreational farming uses within/straddling the subject “GB” zone. All six similar applications are confined to the northern portion of the subject “GB” zone and accessible by public roads. Details of these applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1**.

Approved Applications (4 cases)

- 7.2 Applications No. A/YL-TYST/782, 921 and 999 concerning a site off Lam Tai West Road were approved each for a period of 5 years between 2016 and 2020 mainly on the considerations that the proposals were not incompatible with the surrounding areas; the proposals were generally in line with TPB PG-No. 10; and

departmental concerns could be addressed by imposing approval conditions. However, the former planning permission was subsequently revoked in 2020 due to non-compliance with time-limited approval conditions.

- 7.3 Application No. A/YL-TYST/1026 concerning another site abutting a public road leading from Long Hon Road was approved for a period of 3 years in 2020 on similar considerations as those in paragraph 7.2. However, the planning permission was not implemented and was subsequently revoked in 2021 due to non-compliance with time-limited approval conditions.

Rejected Applications (2 cases)

- 7.4 Applications No. A/YL-TYST/484 (for temporary organic farm cum barbecue and leisure activity area) and 858 (for temporary place of recreation, sports or culture (hobby farm), picnic area, barbecue spot and tent camping ground) were both rejected by the Committee in 2010 and 2018 respectively mainly on the grounds that the proposals were not in line with the planning intention(s) of the “GB” (and “Residential (Group D)”, for the former application only) zone(s); there were potential adverse environment and landscape impacts on the surrounding area; and approval of the application would set an undesirable precedent, amongst other considerations.

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

8.1 The Site is:

- (a) situated in a remote hillside location;
- (b) accessible from Kung Um Road some 730m to its east via a convoluted local track (**Plan A-3** and **Drawing A-1**); and
- (c) currently devegetated, filled/excavated, unpaved and vacant (**Plans A-4a to A-4c**).

8.2 The surrounding areas have the following characteristics (**Plans A-2** and **A-3**):

- (a) rural countryside in character, predominated by woodland and shrubland. Blanket clearance of vegetation, removal of trees and varying degrees of excavation and filling of land had recently taken place in the immediate surroundings (**Plans A-4a to A-4c**). There are scattered open storage/storage yards and warehouses in the area, which are mainly located to the east adjoining the nearby “Undetermined” (“U”) zone;
- (b) about 50m to the west of the Site is an area zoned “Conservation Area” predominated by woodland;
- (c) to the further east of the Site are warehouses in the adjoining “U” zone; and
- (d) all the open storage/storage yards and warehouses in the vicinity are suspected UD’s subject to enforcement action taken by the Planning Authority.

9. Planning Intention

The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

10. Comments from Relevant Government Departments

10.1 The following government departments have been consulted and their views on the application and public comments, where relevant, are summarised as follows:

Land Administration

10.1.1 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.
- (b) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to her office to permit the structures to be erected or to 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 her department acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application 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 her department.

Traffic

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

- (a) The proposed development is for a hobby farm and the Site is remote. The applicant should provide detailed calculations showing how the present parking provision could satisfy the parking need of the proposed development, including the need of the staff.
- (b) Should the application be approved, the applicant should be reminded of the detailed comments at **Appendix V**.

10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.
- (b) The access road connecting the Site with Kung Um Road is not and will not be maintained by his office. His office shall not be responsible for maintaining any access connecting the Site with Kung Um Road.

Environment

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

Should the application be approved, the applicant should be advised to follow relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Use” to minimise any potential environmental nuisances on the surrounding areas.

Landscape

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

- (a) She has reservation on the application from landscape planning perspective.
- (b) With reference to the aerial photo in 2021 (**Plan A-3**), the Site was set within a largely intact and densely vegetated woodland. The Site is situated in an area of rural landscape character predominated by woodland, shrubland and disturbed by temporary structures and open storages. However, according to recent site photos taken by her office, extensive vegetation clearance and site formation works were found within and around the Site, resulting in significant adverse landscape impact, particularly on the original landscape resources.
- (c) There are no similar application for hobby farm use previously approved in the vicinity of the Site. Although there are some approved applications for hobby farm use within the same “GB” zone, they are located far away from the Site within the northern portion of the “GB” zone abutting public roads. Continuous vegetation clearance due to the proposed development within the southern portion of the subject “GB” zone with relatively intact and unified woodland landscape character may cause further adverse landscape impact and further degrade the landscape quality in the surrounding environment.

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view. The applicant should be reminded of the detailed comments on the submitted drainage proposal at **Appendix V**.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission of a revised drainage proposal and implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to water supply for firefighting and fire service installations (FSIs) being provided his satisfaction.
- (b) In consideration of the design/nature of the proposal and the distance of the Site from the nearest available street fire hydrant, water supply for firefighting (i.e. fire hydrant system with adequate flow and pressure at a location that is within 500m from the Site) and FSIs are anticipated to be required. The applicant is advised to submit relevant layout plans incorporated with the proposed water supply for firefighting and FSIs to his department for approval. In addition, the applicant should be reminded of the detailed comments at **Appendix V**.

Building Matters

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

The applicant should be reminded of the detailed comments at **Appendix V**.

District Officer's Comments

10.1.9 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

His office has not received any comments from the locals.

10.2 The following government departments have no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD); and
- (d) Commissioner of Police (C of P).

11. Public Comments Received During the Statutory Publication Periods

On 17.12.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two comments were received from the Hong Kong Bird Watching Society (HKBWS) and an individual. HKBWS objects to the application mainly on the grounds that the proposal is not in line with the planning intention of the “GB” zone; the Board should not encourage “Destroy First, Build Later” applications; relevant government departments should provide appropriate justifications if the application is approved; and approval of the application would set an undesirable precedent (**Appendix IV-1**). The individual objects to the application as it is alleged that the proposal would eventually be used as open storage yards and that the “GB” zone should be preserved to meet the recreational needs of future residents nearby (**Appendix IV-2**).

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 years and excavation of land at a site zoned “GB” on the OZP. The planning intention of “GB” zone is to define the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets. There is a general presumption against development within this zone. The proposed use at the Site which falls within the southern portion of the subject “GB” zone with a largely intact and densely vegetated woodland (**Plan A-3**), is not in line with the planning intention of the “GB” zone. There is no strong planning justification to substantiate a departure from the planning intention, even on a temporary basis. Furthermore, the applicant did not provide any details on the proposed operation to substantiate that the proposal is genuinely for hobby farm use.
- 12.2 The Site and its surroundings were once heavily vegetated with trees and shrubs (**Plan A-3**). Blanket clearance of vegetation, removal of trees and varying degrees of excavation and filling of land had recently taken place at the Site, the associated access and the surroundings (**Plans A-4a to A-4c**). While there are open storage/ storage yards and warehouses to the north and east of the Site, they are suspected UD's subject to enforcement action being taken by the Planning Authority.
- 12.3 CTP/UD&L, PlanD has reservation on the application from landscape planning perspective. The Site was previously set within a largely intact and densely vegetated woodland, in an area of rural landscape character predominated by woodland and shrubland. However, extensive vegetation clearance and site formation works had recently taken place within and around the Site, resulting in significant adverse landscape impact, particularly on the original landscape resources. Continuous vegetation clearance due to the proposed development within the southern portion of the subject “GB” zone with relatively intact and unified woodland landscape character may cause further adverse landscape impact and degradation to the landscape quality in the surrounding environment. Other concerned departments, including DEP and CE/MN, DSD, have no objection/no adverse comment on the application.
- 12.4 The proposed development is considered not in line with TPB PG-No. 10 in that there is no strong planning justification to substantiate the proposed development, extensive clearance of existing natural vegetation and trees and significant adverse

impact on existing natural landscape had taken place, and no tree preservation and landscape proposals had been submitted in support of the application.

- 12.5 There is no previous application concerning the Site. Two similar applications had been rejected by the Committee in the subject “GB” zone mainly on the grounds that the proposals were not in line with the planning intention of the “GB” zone and that there were potential adverse landscape impacts on the surrounding area. Such considerations are generally applicable to the current application. While the Committee had approved four similar applications concerning broadly two sites within the subject “GB” zone, they are all located at the northern half of the subject “GB” zone and the proposals were generally compatible with the surrounding landscape character (**Plan A-1**). The planning circumstances for those approved applications are not entirely applicable to the current application, as the Site is located at the centre of the southern half of the subject “GB” zone with relatively intact and unified woodland landscape character. Approval of the current application may lead to proliferation of development into the subject portion of the “GB” zone, resulting in further degradation of the landscape quality in the area.
- 12.6 There were two public comments objecting to the application as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.5 are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12, and having taken into account the public comments as summarised in paragraph 11 above, the Planning Department does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the “GB” zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets and there is a general presumption against development within this zone. 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 does not comply with the Town Planning Board Guidelines No. 10 for ‘Application for Development within Green Belt Zone under section 16 of the Town Planning Ordinance’ in that extensive clearance of existing natural vegetation within and around the Site had been taken place and approval of the proposed development may cause further adverse landscape impact and degradation of the landscape quality in the surrounding environment.
- 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 28.1.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no public announcement systems will be used at the Site, as proposed by the applicant, at any time during the planning approval period;
- (b) the provision of boundary fence on the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 28.7.2022;
- (c) the submission of a revised 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 28.7.2022;
- (d) in relation to (c) above, the 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 28.10.2022;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a water supply for firefighting and 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 28.7.2022;
- (g) in relation to (f) above, the implementation of the water supply for firefighting and 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 28.10.2022;
- (h) if any of the above planning condition (a) or (e) 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;
- (i) if any of the above planning condition (b), (c), (d), (f) or (g) 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
- (j) 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 at **Appendix V**.

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

Appendix I	Application Form with annexes and plans received on 9.12.2021
Appendix Ia	Supplementary Information dated 14.12.2021
Appendix II	Relevant Extract of TPB PG-No. 10
Appendix III	Similar Applications within/straddling the subject “GB” zone on the OZP
Appendices IV-1 and IV-2	Public Comments Received During the Statutory Publication Period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Drainage Proposal
Drawing A-4	Proposed Excavation Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photos
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
JANUARY 2022**