

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/747

- Applicant** : Ms. YUNG Ching Yuen represented by R-riches Property Consultants Limited
- Site** : Lot 178 (Part) in D.D. 110, Kam Tin, New Territories
- Site Area** : About 1,118m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Agriculture” (“AGR”)
- Application** : Temporary Animal Boarding Establishment for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary animal boarding establishment for a period of 5 years. According to the Notes of the OZP, ‘Animal Boarding Establishment’ is a Column 2 use within the “AGR” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently used as the applied use without planning permission (**Plans A-2, A-4a to A-4b**).
- 1.2 The proposed development involves twelve 1-storey structures with a total floor area of about 470m² and building height not exceeding 3.5m for dog kennel, rain shelter and site office. The business hours are from 9:00a.m. to 6:00p.m. daily (including public holidays) with overnight animal boarding services. About 70 dogs will be accommodated at the Site. According to the applicant, no public announcement system and whistle blowing will be used at the Site. All animals will be kept indoor from 6:00 p.m. to 9:00 a.m. and the structures for animal boarding will be enclosed with soundproofing materials and provided with mechanical ventilation and air-conditioning system. Two parking spaces for private car will be provided. The Site is accessible from Kong Tai Road via local track. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following document:

- (a) Application form with plans received on 6.1.2021 **(Appendix I)**
- (b) Further Information (FI) received on 17.2.2021 in response to departmental comments **(Appendix Ia)**
[exempted from publication requirement]
- (c) FI received on 22.2.2021 in response to departmental comments **(Appendix Ib)**
[exempted from publication requirement]

2. **Justifications from the Applicant**

The justification put forth by the applicant in support of the application is detailed in the application form and FI at **Appendices I to Ia**, and is briefly summarized as follows:

- (a) The proposed use is on a temporary basis and will not jeopardize the long-term planning intention of the “AGR” zone. The Site will be reinstated to a condition suitable for agricultural uses after the planning approval period.
- (b) The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ to minimize adverse environmental impacts and nuisance to the surrounding area and the ‘Professional Persons Environmental Consultative Committee Practice Notes’ for sewerage treatment. No adverse traffic, environmental, landscape and drainage impacts will be induced to the surrounding areas.

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

The applicant is not the “current land owner” of the Site but has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting notice at the Site and sending notification letter to the Kam Tin Rural Committee by registered mail. 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.

5. **Previous Application**

The Site is not subject to any previous application.

6. **Similar Applications**

- 6.1 There are 40 similar applications for temporary animal boarding establishment involving 27 sites within the same “AGR” zone. Except Application No.

A/YL-KTN/156, which was rejected by the Rural and New Town Planning Committee (the Committee), the remaining 39 applications were approved with conditions by the Committee. Details of these applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

One Rejected Application

- 6.2 Application No. A/YL-KTN/156 for proposed dog kennel for a period of 3 years was rejected by the Committee on 8.11.2002 on the grounds that the proposed development was not in line with the planning intention of the “AGR” zone; and there was no information in the submission to demonstrate that the proposed development would not cause adverse environmental and drainage impacts on the surrounding areas.

39 Approved Applications

- 6.3 39 applications at 26 sites were approved with conditions by the Committee for 2 to 5 years between 2005 and January 2021 for similar reasons that temporary approval would not frustrate the long-term planning intention of the “AGR” zone; the developments were not incompatible with the surrounding land uses; previous approvals were granted and the applicants had made effort to comply with the approval conditions; and/or the relevant government departments generally had no adverse comments on the developments. However, planning permissions for 16 applications were revoked due to non-compliance with approval conditions.
- 6.4 Apart from the above processed similar applications, Application No. A/YL-KTN/725 for proposed temporary animal boarding establishment (dog kennel cum dog recreation centre) for a period of 3 years within the same “AGR” zone will be considered at the same meeting.

7. The Site and Its Surrounding Areas (Plans A-2 to A-4b)

7.1 The Site is:

- (a) currently fenced, hard paved and used for the applied use without planning permission; and
- (b) accessible from Kong Tai Road via a local track.

7.2 The surrounding area is rural in character predominated by open storage/ storage yards, residential structures/dwellings, warehouse, plant nursery, dog kennel, chicken shed and vacant/unused land:

- (a) to its west are open storage/ storage yards, residential dwellings/ structures and unused/ vacant land. To its north across a local track are unused land and the ventilation building on the Guangzhou-Shenzhen-Hong Kong Express Rail Link;
- (b) to its east are open storage/ storage yards, chicken shed, dog kennel and vacant/unused land; and

- (c) to its south are open storage yards, warehouse, plant nursery, fallow agricultural land and unused land.

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 Department

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

Land Administration

- 9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL of 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.
- (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 regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization 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 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 the LandsD.

Traffic

- 9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on 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.

- (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 of HyD):

- (a) Part of Kong Tai road is maintained by his office.
- (b) HyD is not/shall not be responsible for the maintenance of any access connecting the Site and part of Kong Tai Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads and drains.

Environment

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

- (a) There was no environmental complaint concerning the Site received in the past three years.
- (b) Provided the applicant would minimise any noise from the applied use such as prohibiting the use of public announcement system, whistle blowing, portable loudspeakers or any form of audio amplification system so that it would not cause environmental nuisance to nearby sensitive receivers, he has no objection to the application from environmental planning perspective subject to the following approval condition:
 - (i) The animals shall be kept inside the enclosed structures between 6:00p.m. and 9:00a.m., as proposed by the applicant, during the planning approval period.
 - (ii) No public announcement system, whistle blowing, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site at any time during the planning approval period.
- (c) Moreover, the applicant is also advised to (i) properly design and maintain the facilities to minimize any potential environmental nuisance as proposed by the applicant, e.g. (a) the proposed structures for animal boarding establishment should be enclosed with soundproofing materials with provision of 24-hour mechanical ventilation and air-conditional system; and (b) provision of 2.5m solid (metal) fence wall around the Site; (ii) to

implement proper administrative control measures as proposed by the applicant e.g. (a) outdoor activities of dogs should only be carried out at Structure B9 and B10 as shown in the submitted layout plan attached; (b) a maximum of eight dogs to be walked outdoor at the same time; and (c) dogs would wear dog masks during outdoor activities; (iii) to follow the requirements stipulated in “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site”; (iv) to provide adequate supporting infrastructure/ facilities for proper collection, treatment and disposal of waste/ wastewater generated from the applied use. If septic tank and soakaway system will be used in case of unavailability of public sewer, its design, construction and operation should follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environment Protection Department (EPD)” including percolation test; and (v) it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances.

Landscape

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

- (a) She has no objection to the application from landscape planning perspective.
- (b) Based on the aerial photo taken in 2020, the Site is situated in an area of rural inland plains landscape character composed of farmlands, temporary structures, vegetated areas and scattered tree groups. The applied use is not incompatible with the existing landscape character of the area.
- (c) With reference to site photos taken on 1.2.2021, the Site is hard paved with temporary structures. No existing tree is observed within the Site. Significant adverse impact on the existing landscape resources arising from the applied use within the Site is not anticipated.

Agriculture and Nature Conservation

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

- (a) The Site falls within “AGR” zone and is currently paved vacant land occupied by several temporary structures. 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 greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.

- (b) Nevertheless, he has no comment from the conservation and animal establishment boarding licence aspects. The Site does not associate with any licences granted by his Department, nor has he received any application regarding the Site. Under the Public Health (Animals) (Boarding Establishment) Regulations, Cap. 139I, any person who provides food and accommodation for animals in return for a fee paid by the owner must apply for a Boarding Establishment Licence from his department. He will provide detailed information and guidance on Animal Boarding Establishment when the applicant submits the licence application.

Drainage

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

- (a) He has no objection in principle to the development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission, implementation and maintenance of a drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning approval.

Building Matters

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

- (a) There is no record of approval by the Building Authority (BA) for the existing structures at the Site. He is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) 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 BA should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO).
- (c) His detailed comments on UBW, provision of access, temporary or licensed structures are at **Appendix IV**.
- (d) Detailed checking under the BO will be carried out at building plan submission stage.

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 fire service installations 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 FSI to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Environmental Hygiene

9.1.10 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) If the proposal involves any commercial / trading activities, there should be no encroachment on the public place and no environmental nuisance should be generated to the surroundings. Its state should not be a nuisance or injurious or dangerous to health and surrounding environment. Any animal carcass/ parts shall be properly wrapped or bagged before disposal and in accordance with the relevant legislation. Also, for any waste generated from the activities in the premises, the applicant should handle on their own / at their expenses.
- (b) Proper licence/ permit issue by his department is required if there is any food business/ catering service/ activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and any other relevant legislation for the public and the operation of any business should not cause any obstruction.

District Officer's Comments

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

He has not received any comments from the locals and has no comments on the application.

9.2 The following Government departments have no comment on the application:

- (a) Project Manager/West, Civil Engineering and Development Department;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Director of Electrical and Mechanical Services; and
- (d) Commissioner of Police.

10. **Public Comment Received During the Statutory Publication Period**

On 15.1.2021, the application was published for public inspection. During the three-week statutory publication period, three public comments from the Kadoorie Farm and Botanic Garden Corporation, Designing Hong Kong Limited and an individual were received (**Appendix III-1 to III-3**). The comments object to the application mainly on the grounds that the applied use is not in line with the planning intention of the “AGR” zone and the impact on existing active farms should be considered; approval of the application would set an undesirable precedent in the “AGR” zone and the impact on existing farms should be considered; the Site may be subject to ‘destroy first, built later’ practice which should not be encouraged; there is no information on the status of the applicant and suitability on animal caring; the toxic waste from the development will pollute the agricultural land.

11. **Planning Considerations and Assessments**

- 11.1 The application is for temporary animal boarding establishment for a period of 5 years at the “AGR” zone. 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 entirely in line with the planning intention of the “AGR” zone. DAFC does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation. However, approval of the application on a temporary basis for a period of 5 years would not jeopardize the long-term planning intention of the “AGR” zone.
- 11.2 The applied use is considered not incompatible with the surrounding area which is rural in character predominated by residential structures/dwellings, chicken shed and vacant/unused land. Although there are residential dwellings/structures in the vicinity of the Site (the nearest is to the immediate west of the Site) (**Plan A-2**), the applicant advises that all the animals will be kept within the enclosed structures between 6:00p.m. and 9:00a.m.. The structures for animal boarding will be equipped with soundproofing material, mechanical ventilation and air conditioning. In addition, no public announcement system and whistle blowing will be used at the Site. DEP has no adverse comment on the application.
- 11.3 Relevant departments consulted including C for T, DEP, CE/MN of DSD, CTP/UD&L of PlanD and D of FS, except DAFC, have no adverse comment on the application. To minimise any possible environmental nuisance, approval conditions restricting the operation hours and outdoor animal activities and prohibiting the use of public announcement system and whistle blowing are recommended in paragraphs 12.2 (a) to (c) below. The applicant will also be

advised to adopt the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites'. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions (d) to (i) recommended in paragraph 12.2 below.

- 11.4 The Site is not subject to any previous application. There are 39 similar applications on 26 sites within the same "AGR" zone approved with conditions by the Committee between 2005 and 2021 as stated in paragraph 6 above. The circumstance of the only rejected application is different from the current one. Approval of this application is in line with the Committee's previous decisions.
- 11.5 Three public comments were received during the statutory publication period objecting to the application as stated in paragraph 10 above. In this regard, the departmental comments and planning considerations and assessments as stated 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 has no objection to the temporary animal boarding establishment for a period of 5 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 5 years until 26.2.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00p.m. and 9:00a.m. (except overnight animal boarding), as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) all animals shall be kept inside the enclosed animal boarding establishment on the Site between 6:00p.m. and 9:00a.m., as proposed by the applicant, at all times during the planning approval period;
- (c) no public announcement system, portable loudspeaker, any form of audio amplification system, or whistle blowing is allowed to be used on 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 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 26.8.2021;

- (f) in relation to (e) 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 26.11.2021;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of 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 26.8.2021;
- (i) in relation to (h) above, the implementation of 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 26.11.2021;
- (j) if any of the above planning condition (a), (b), (c), (d) or (g) 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;
- (k) if any of the above planning condition (e), (f), (h) or (i) 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
- (l) 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.

12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the 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 for a departure from the planning intention, even on a temporary basis.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix IV**.

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

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| Appendix I | Application form received on 6.1.2021 |
| Appendix Ia | FI received on 17.2.2021 |
| Appendix Ib | FI received on 22.2.2021 |
| Appendix II | Similar applications within the same “AGR” zone on the Kam Tin North OZP |
| Appendix III-1 to III-3 | Public comments received during the statutory publication period |
| Appendix IV | Advisory Clauses |
| Drawing A-1 | Layout Plan |
| Plan A-1 | Location Plan with Similar Applications |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plana A-4a to A-4b | Site Photos |

**PLANNING DEPARTMENT
FEBRUARY 2021**