

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/1075

<u>Applicant</u>	:	KOU Wai Peng represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lots 1023 S.A, 1023 RP, 1024 S.A and 1024 RP in D.D. 113, Ho Pui, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	:	About 1,608m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Temporary Animal Boarding Establishment and Associated Filling of Land for a Period of Five Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary animal boarding establishment (ABE) and associated filling of land for a period of five years at the application site (the Site), which falls within an area zoned “AGR” on the OZP (**Plan A-1**). According to the Notes of the OZP for “AGR” zone, ‘Animal Boarding Establishment’, which is a Column 2 use, and filling of land require planning permission from the Town Planning Board (the Board). The Site is currently fenced-off, largely hard-paved with a cluster of trees at the northern part and two other trees in the southern part of the Site, and largely vacant with minor portions being occupied by temporary structures, open storage of construction materials and plant nursery (**Plans A-2 to A-4b**).
- 1.2 The Site is accessible from Kam Ho Road via a local track (**Plans A-1 to A-3**). According to the applicant, the proposed use involves four one to two-storey structures with height ranging from about 3.5m to 7.5m and a total floor area of about 576m² for ABE, washroom and site office uses. The ABE will accommodate no more than 20 dogs at a time. All dogs will be kept inside the enclosed structures fitted with soundproofing materials, 24-hour mechanical ventilation and air-conditioning systems and no outdoor dog activities and training will be held at the Site at all times. No public announcement system, whistle blowing, portable loud speaker or any form of audio amplification system will be used and no quarantine station or lairage for animals will be provided at the Site at all times. The proposed

operation hours are from 9:00 a.m. to 6:00 p.m. daily, except for overnight animal boarding. Advanced visitor appointment system will be adopted to regulate the numbers of visitors and no walk-in visitors will be served. A 2.5m-high solid fence wall would be erected along the site boundary to minimise potential noise nuisance. All the existing trees at the Site would be retained and maintained (**Drawing A-1 and Plans A-4a and A-4b**), and no tree felling will be carried out within the Site at all time. Three parking spaces for private car (5m x 2.5m) will be provided at the Site. Sufficient manoeuvring space will also be provided within the Site to ensure that no vehicle will turn back onto the local access. No vehicles exceeding 5.5 tonnes, including container tractors/trailers, will be allowed to be parked/stored on or enter/exit the Site at all time (**Drawing A-1**). The applicant also applies for regularisation of filling of land for about 1,466m² (about 91% of the Site) with concrete of not more than 0.2m in depth (from +18.4mPD to +18.6mPD) for site formation of structures, parking and circulation space (**Drawing A-2**). The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1 and A-2** respectively.

1.3 The Site is involved in six previous applications for various temporary uses (details at paragraph 5 below). The last application No. A/YL-KTS/940 submitted by the same applicant for the same use at the same site with the same development layout and parameters was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 3.3.2023, but the planning permission was subsequently revoked on 3.3.2025 due to non-compliance with time-limited approval conditions.

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

- (a) Application Form with supplementary planning statement (SPS) and supplementary information received on 12.5.2025 and 21.5.2025 respectively (**Appendix I**)
- (b) Further Information (FI) received on 18.6.2025 [#] (**Appendix Ia**)

[#] *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 with SPS, supplementary information and FI at **Appendix I and Ia** respectively. They can be summarised as follows:

- (a) The proposed temporary use will not jeopardize the long-term planning intention of the “AGR” zone and will utilise scarce land resources as the Site is currently vacant without active agricultural activities.
- (b) The Site is the subject of a previous approved application No. A/YL-KTS/940 for the same ABE use which was subsequently revoked due to non-compliance with time-limited approval conditions. However, the applicant has made efforts to comply with approval conditions. In support of the current application, the applicant has also submitted a drainage proposal and a fire service installations

(FSIs) proposal. The approval of the current application is in line with the Board's decision.

- (c) Majority of the Site are paved with concrete of not more than 0.2m in depth for site formation of structure, parking and circulation space. No further filling of land will be carried out within the Site. The unpaved site area will remain as a landscaping area to preserve the existing tree clusters at the Site. All existing trees within the Site will be preserved and maintained. The extent of land filling has been kept to the minimum for meeting the operational need of the proposed use. The applicant commits to reinstate the Site to an amenity area upon expiry of the planning permission.
- (d) Advanced visitor appointment system will be adopted to regulate the number of visitors and no walk-in visitors will be served. No adverse traffic impact is anticipated. No environmental nuisance arising from the proposed use is anticipated. The applicant will strictly follow relevant guidelines and practice notes issued by the Environmental Protection Department so as to minimise adverse impacts and environmental nuisance to the surrounding areas.
- (e) The applicant will submit Short Term Waiver (STW) application to rectify the lease breaches upon planning approval was given by the Board.

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 requirements 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. 31B) by posting notices at the Site and sending notice to the Pat Heung Rural Committee. 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 Applications

- 5.1 The Site, in part or in whole, is involved in six previous applications (No. A/YL-KTS/385, 414, 494, 597, 698 and 940), amongst which five of them (No. A/YL-KTS/385, 414, 494, 597 and 698) are for different temporary open storage uses and the considerations of them are irrelevant due to different uses involved. Details of the applications are summarised in **Appendix II** and the location is shown on **Plan A-1**.
- 5.2 The remaining application No. A/YL-KTS/940 for the same ABE use was approved with conditions by the Committee on 3.3.2023 mainly on the considerations that the temporary approval would not frustrate the long-term planning intention of the “AGR” zone; the proposed use was considered not

incompatible with the surrounding land uses; and there was no adverse comment from concerned government departments and/or the concerns could be addressed by appropriate approval conditions. The planning permission was subsequently revoked on 3.3.2025 due to non-compliance with time-limited approval conditions on the implementation of the drainage proposal and the FSIs proposal. Compared with the last approved application, the current application is submitted by the same applicant for the same use at the same site with no change in layout and development parameters as mentioned in paragraph 1.3 above.

6. Similar Application

There is no similar application for temporary ABE within the same “AGR” zone in the vicinity of the Site in the past five years.

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

7.1 The Site is:

- (a) accessible from Kam Ho Road via a local track;
- (b) currently fenced-off, largely hard-paved with a cluster of trees at the northern part and two other trees in the southern part of the Site;
- (c) largely vacant with minor portions being occupied by temporary structures, open storage of construction materials and plant nursery; and
- (d) located within the Ho Pui Site of Archaeological Interest.

7.2 The surrounding areas comprise predominantly by village settlements of Ho Pui Tsuen, open storage and storage yards, warehouse, plant nursey, cultivated agricultural land, vacant land and woodland. A nullah is located to the east of the Site across Kam Ho Road.

8. Planning Intention

8.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes

8.2 According to the Explanatory Statement of the OZP for “AGR” zone, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

9. Comments from Relevant Government Departments

9.1 Apart from the government department 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, if any, are provided in **Appendix III and IV** respectively.

9.2 The following government department has adverse comment on the application:

Land Administration

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

- (a) has adverse comment on the application;
- (b) the Site comprises Old Schedule Agricultural Lots No. 1023 S.A, 1023 RP, 1024 S.A and 1024 RP in D.D. 113 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;

Unauthorised structure(s) within the said private lot(s) covered by the planning application

- (c) LandsD has reservation on the application since there is/are unauthorised structure(s) on Lot No. 1023 RP in D.D. 113 which are already subject to lease enforcement actions according to case priority. The lots owner(s) should rectify/apply for regularisation on the lease breaches as demanded by LandsD; and
- (d) if the planning application is approved, the lot owner(s) shall apply to his office for a STW to permit the structure(s) erected within the said private lot(s). The application(s) for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if approved, will be subject to such terms and conditions including the payment of waiver fee 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.

10. Public Comments Received During Statutory Publication Period

On 23.5.2025, the application was published for public inspection. During the statutory publication period, two public comments were received. The one from an indigenous inhabitant representative of Ho Pui Tsuen supports the application mainly on the grounds that the proposed use is considered in line with the agricultural purposes; the Site does not fall within the village environs and the proposed use would not bring significant adverse impacts to surrounding village; and the proposed use is considered appropriate as the existing agricultural land has already lost its function. Another one from an individual expresses concerns if the proposed ABE would be implemented and the

approval conditions under the last application No. A/YL-KTS/940 had not been complied with (**Appendix V**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary ABE and associated filling of land for a period of five years at the Site zoned “AGR” (**Plan A-1**). Whilst the proposed use is not entirely in line with the planning intention of the “AGR” zone, the Director of Agriculture, Fisheries and Conservation has no adverse comment on the application from agricultural and nature conservation perspectives. In view of the above and taking into account the assessments below, there is no objection to the proposed use on a temporary basis with associated filling of land for a period of five years.
- 11.2 Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) and Director of Environmental Protection have no objection to the application from drainage and environmental planning perspectives respectively. As the Site is zoned “AGR”, an approval condition requiring the reinstatement of the Site upon expiry of the planning permission so as to uphold the planning intention of the “AGR” zone and restore the greenery of the area is recommended in paragraph 12.2 below should the Committee decide to approve the application. The applicant has also committed to reinstate the Site to an amenity area upon expiry of the approval period.
- 11.3 The proposed use is considered not incompatible with the surrounding areas, which comprise predominantly village settlements of Ho Pui Tsuen, open storage and storage yards, warehouse, plant nursey, cultivated agricultural land, vacant land, woodland and a nullah (**Plan A-2**). The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) has no objection to the application from landscape planning perspective and considers that significant adverse landscape impact arising from the proposed use is not anticipated.
- 11.4 Regarding DLO/YL, LandsD’s concern on the unauthorised structures erected within the Site, the applicant will also be advised to liaise with LandsD on these land administration matters should the Committee approve the application. Other concerned government departments consulted, including the Commissioner for Transport, Antiquities and Monuments Office of Development Bureau and Director of Fire Services (D of FS) have no objection to or no adverse comment on the application. To address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise any potential environmental nuisance caused by the applied use on the surrounding areas.
- 11.5 The Site is the subject of a previously approved application No. A/YL-KTS/940 submitted by the same applicant for the same use at the same site with same layout and development parameters as mentioned in paragraph 5 above, which was subsequently revoked due to non-compliance with time-limited approval

conditions on the implementation of the drainage proposal and the FSIs proposal. In this regard, the applicant has submitted drainage and FSIs proposals in support of the current application which have been considered acceptable by CE/MN, DSD and D of FS respectively. As such, sympathetic considerations may be given to the application. Should the Committee decide to approve the application, the applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further applications.

- 11.6 For the public comments mentioned in paragraph 10 above, the departmental comments and planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10 above, PlanD has no objection to the application.
- 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 five years until 4.7.2030. 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 4.4.2026;
- (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 implementation of the accepted 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 4.4.2026;
- (d) 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;
- (e) if any of the above planning condition (a) or (c) 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
- (f) upon expiry of the planning permission, the reinstatement of the Site, including the removal of hard paving and fill materials and grassing of the site to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are attached in **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, and 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.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form with SPS and supplementary information received on 12.5.2025 and 21.5.2025
Appendix Ia	Further information received on 18.6.2025
Appendix II	Previous applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Site layout plan
Drawing A-2	Land filling plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4a and 4b	Site photos

**PLANNING DEPARTMENT
JULY 2025**