

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-HLH/57

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| <u>Applicant</u> | : | Ms. WONG Wan represented by R-riches Property Consultants Limited |
| <u>Site</u> | : | Lot 325 (Part) in D.D. 87, Hung Lung Hang, New Territories |
| <u>Site Area</u> | : | About 2,195m ² |
| <u>Lease</u> | : | Block Government Lease (demised for agricultural use) |
| <u>Plan</u> | : | Approved Hung Lung Hang Outline Zoning Plan (OZP) No. S/NE-HLH/11 |
| <u>Zoning</u> | : | “Agriculture” (“AGR”) |
| <u>Application</u> | : | Proposed Temporary Animal Boarding Establishment with Ancillary Facilities for a Period of Five Years and Filling of Land |

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary animal boarding establishment with ancillary facilities for a period of five years and filling of land at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “AGR” on the approved Hung Lung Hang OZP No. S/NE-HLH/11. According to the Notes of the OZP, ‘Animal Boarding Establishment’ is a Column 2 use in the “AGR” zone, and any filling of land would require planning permission from the Town Planning Board (the Board). The Site is covered with trees and overgrown.
- 1.2 According to the applicant, the proposed development involves six single-storey structures with a total floor area of about 882m² and building height of about 3 to 4m for animal boarding establishment, storage and site office uses (**Drawing A-1**). The Site will be filled with concrete of about 0.1 to 0.2m in depth (from about 20.7mPD to about 20.8/20.9mPD) for site formation works (**Drawing A-2**). Not more than 150 dogs/cats will be accommodated at the Site. According to the applicant, all dogs/cats will be kept indoor from 6:00 p.m. to 9:00 a.m. Advanced booking is required for visitors to access the Site. It is estimated that two staff members will work at the Site, and one of them will stay overnight. Two private car parking spaces and one loading / unloading space for light goods vehicle will be provided on the Site for use of staff /visitors. The ingress/egress is located at the eastern part of the Site. The Site is accessible via a local track to Kong Nga Po Road (**Plan A-1**). The proposed layout and land filling plans submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

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

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| (a) | Application Form with attachment received on 27.6.2022 | (Appendix I) |
| (b) | Planning Statement | (Appendix Ia) |
| (c) | Supplementary Information received on 29.6.2022 | (Appendix Ib) |
| (d) | Further Information (FI) received on 29.7.2022 | (Appendix Ic) |
| (e) | FI received on 17.8.2022 | (Appendix Id) |

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 1 of the Planning Statement and FI at **Appendices Ia, Ic to Id**, as summarized below:

- (a) the applicant is the operator providing a temporary shelter for stray animals affected by the implementation of New Development Areas. The shelter is currently located in the North District. Due to the land issue, the operator is forced to relocate from the current premises and thus urgently needs to identify another suitable site to relocate the shelter;
- (b) the Site falls within an area zoned “AGR”, and no active agricultural activities are found within the Site. The proposed development is considered compatible with the surrounding land uses which are dominated by vacant land, open storage and warehouse uses;
- (c) sufficient space is provided for smooth manoeuvring to and from the Site. No vehicle will be allowed to queue back to or reverse to/from the Site to the public road. The number of vehicular trips generated and attracted by the proposed development is minimal, adverse traffic impact on the surrounding roads is not anticipated;
- (d) the enclosed structures will be equipped with soundproofing materials, mechanical ventilation and air-conditioning systems. No public announcement system, whistle blowing, portable loud speaker, or any form of audio amplification system will be used at the Site. Adverse environmental impact is not anticipated;
- (e) the applicant has submitted the drainage proposal and fire service installations proposal to demonstrate mitigation measures undertaken to minimize drainage impact and fire risk; and
- (f) no old and valuable tree species have been identified at the Site. The existing trees (approx. 33 trees) are mainly invasive species (*Leucaena leucocephala*) and wild vegetation which will be felled due to proposed land filling and site formation works. Proposal to retain trees along the site boundary has been explored and considered infeasible due to its interface with the drainage proposal. 18 *Bauhinia Blakeana* would be planted along the site boundary as part of mitigation measures. The proposed development will not create significant adverse landscape impact.

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

The applicant is not the “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 taking reasonable steps to give notification to the owner including posting site notices and sending notices to the Ta Kwu Ling District Rural Committee by registered post. Detailed information would be deposited at the meeting for Members' inspection.

4. Previous Application

- 4.1 The Site is the subject of a previous application No. A/NE-HLH/14 for a different use (i.e. proposed temporary open storage of construction equipment for a period of three years) rejected by the Committee on 28.3.2008.
- 4.2 Details of the previous application are at **Appendix II** and its location is shown on **Plan A-1**.

5. Similar Application

There is no similar application for temporary animal boarding establishment within the “AGR” zone on the OZP.

6. The Site and Its Surrounding Areas (Plans A-1, A-2, and photos on Plan A-3 and A-4)

- 6.1 The Site is:
 - (a) covered with trees and overgrown; and
 - (b) accessible from Kong Nga Po Road via a local road (**Plan A-1**).
- 6.2 The surrounding areas have the following characteristics:
 - (a) rural character mixed with open storage yards, tree clusters, fallow agricultural land, and vacant/unused land;
 - (b) to its immediate north is an open storage yard; and to its further northwest are some scattered domestic structures;
 - (c) to the immediate south and west are vacant land and a stream respectively (**Plan A-2**); and
 - (d) to the southwest are open storage yard and warehouse which are subject to enforcement action against an unauthorized development involving storage use (**Plan A-2**).

7. Planning Intention

- 7.1 The planning intention of the “AGR” zone is intended 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.

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

8. Comments from Relevant Government Departments

- 8.1 Apart from the government departments as set out in paragraph 8.2 below, other departments consulted have no objection to/no adverse comment on the application. Their general comments on the application and advisory comments are provided at **Appendices III and IV** respectively.

- 8.2 The following government department has comments on the application:

District Officer's Comments

- 8.2.1 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- (a) he has consulted the locals. The Indigenous Inhabitant Representative (IIR) of Chow Tin Tsuen and the Resident Representative (RR) of San Uk Ling object to the application. The First Vice-Chairman of Ta Kwu Ling District Rural Committee and the IIR of San Uk Ling object to the application mainly on the grounds that the Site is not suitable for the proposed use; and
- (b) the Chairman of Fung Shui Area Committee, the incumbent North District Councilor of N16 Constituency, the IIR and the RR of Lei Uk and the RR of Tai Po Tin have no comment. The IIR and the RR of Chow Tin Tsuen and the IIR of Tai Po Tin did not reply by deadline.

9. Public Comments Received During Statutory Publication Period (Appendices Va to Vd)

- 9.1 On 5.7.2022, the application was published for public inspection. During the statutory public inspection period, a total of 16,639 public comments on the application were received, including 16,433 supporting comments (with comments in standard formats at **Appendix Va**), 20 comments raising objection or concerns, and 186 comments expressing views or indicating no comment on the application. Full set of public comments will be deposited at the Board's Secretariat for Members' inspection and reference. Extract of comments are at **Appendices Va to Vd**. Their major views are summarized as follows:

Supporting Comments

- 9.2 Supporting comments were submitted by 16,433 individuals (**Appendix Vb**), and the reasons are summarized as follows:
- (a) the proposed development is temporary in nature and small in scale, which is not in conflict with the planning intention of "AGR" zone;

- (b) the proposed development is not incompatible with the surrounding areas and no potential adverse impact is anticipated in view of the scarcely populated setting in the vicinity of the Site;
- (c) the proposed development can control the number of stray animals and reduce the nuisance to villagers;
- (d) there is insufficient provision of such type of establishment in Hong Kong. The proposed development can provide a shelter for stray animals;
- (e) such type of establishment can help reduce unnecessary government expenditure on handling the stray animal problems; and
- (f) the proposed development can demonstrate a good example for raising public awareness on animal welfare and adoption.

Objecting / Raising Concerns

9.3 Objecting comments were submitted by 20 individuals (**Appendix Vc**). Their major views are as follows:

- (a) the proposed development is not in line with the planning intention of “AGR” zone;
- (b) land resources should be prioritized for residential development; and
- (c) the proposed development would cause public hygiene concern and adverse environmental impact on the surrounding areas.

Expressing Views / Indicating No Comments

9.4 The 186 comments expressing views or indicating no comment were from (i) 184 individuals; (ii) the Chairman of Sheung Shui District Rural Committee; and (iii) Kadoorie Farm & Botanic Garden Corporation (**Appendix Vd**). Their major views are as follows:

- (a) sewerage impact on the nearby watercourse arising from the proposed development should be assessed;
- (b) enhanced air ventilation system and drainage facilities should be provided in the proposed development;
- (c) some approval conditions could be streamlined or a longer compliance period could be granted to facilitate the non-governmental organisations (NGOs) in setting up animal boarding facilities in accordance with government departments’ requirements;
- (d) sufficient space should be provided for the animals being kept at the Site; and
- (e) relevant authorities could explore the possibility of providing animal boarding services in collaboration with local NGOs to provide adequate caring services for animals in need.

10. Planning Considerations and Assessments

- 10.1 The application is for the proposed temporary animal boarding establishment with ancillary facilities for a period of five years and filling of land at “AGR” zone. According to the applicant, the Site will be filled with concrete of not more than 0.2m in depth and six structures will be erected on the Site. The proposed 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 and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC has no strong view on the application from nature conservation point of view and opines that the Site possesses potential for agricultural rehabilitation and can be used as greenhouses or plant nurseries, etc., though whether there will be agricultural activities on a specific site will hinge on a lot of factors. Nonetheless, approval of the application on a temporary basis would not jeopardize the long-term planning intention of the ‘AGR’ zone. Filling of land within “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. It is noted that CE/MN, DSD and DEP have no adverse comment from the drainage and environmental perspectives.
- 10.2 The Site is located in an area of rural fringe landscape character comprising clusters of trees, open storage, fallow agricultural land and vacant land (**Plan A-2**). According to the applicant, there are approximately 33 trees found at the Site, which are mainly invasive species. All trees will be felled due to land filling and site formation works. Proposal to retain trees along the site boundary has been explored and considered infeasible due to its interface with the drainage proposal. CTP/UD&L, PlanD considers the proposed use is not entirely incompatible with the surrounding environment, and 18 *Bauhinia Blakeana* are proposed to be planted. As significant landscape impact arising from the proposed use is not anticipated, she has no objection to the application from landscape planning perspective.
- 10.3 Regarding the possible environmental impact and noise nuisances, the applicant indicates that relevant measures including erection of enclosed structures equipped with soundproofing materials, mechanical ventilation and air-conditioning systems, etc. will be implemented. DEP has no objection to the application. Should the application be approved, relevant approval conditions in relation to environmental mitigation will be imposed to the satisfaction of DEP. 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’ in order to minimize the possible environmental impacts on the surrounding areas. C for T considers that the traffic impact induced by the temporary development is tolerable and has no objection to the application from traffic engineering perspective. Other relevant government departments consulted, including DLO/N of LandsD, CE/C of WSD and D of FS, have no adverse comment on or no objection to the application.
- 10.4 Regarding the local views conveyed by DO(N), HAD and public comments as detailed in paragraphs 8.2.1 and 9 above respectively, the government departments’ comments and planning assessments above are relevant.

11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the local and public comments mentioned in paragraphs 8.2.1 and 9 above respectively, the Planning Department has no objection to the application.
- 11.2 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 26.8.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) all animals shall be kept inside the enclosed animal boarding establishment on the Site between 6:00 p.m. to 9:00 a.m., as proposed by the applicant, during the planning approval period;
- (b) no public announcement system, whistle blowing, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site, as proposed by the applicant, at any time during the planning approval period;
- (c) the submission of drainage proposal, as proposed by the applicant, 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 26.2.2023;
- (d) in relation to (c) above, the provision of drainage facilities 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 26.5.2023;
- (e) in relation to (d) above, the implemented drainage facilities at the Site shall be maintained at all times during the planning approval period;
- (f) the submission of proposals for fire service installations and water supplies for fire-fighting, as proposed by the applicant, 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 26.2.2023;
- (g) in relation to (f) above, the implementation of proposals for fire service installations and water supplies for fire-fighting 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 26.5.2023;
- (h) if any of the above planning conditions (a), (b) 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 conditions (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 Director of Planning or of the Town Planning Board.

Advisory Clauses

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

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

- the proposed 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 and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification in the submission for a departure from such planning intention, even on a temporary basis.

12. Decision Sought

12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

12.2 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.

12.3 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.

13. Attachments

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| Appendix I | Application Form with attachments received on 27.6.2022 |
| Appendix Ia | Planning Statement |
| Appendix Ib | Supplementary Information received on 29.6.2022 |
| Appendix Ic | FI received on 29.7.2022 |
| Appendix Id | FI received on 17.8.2022 |
| Appendix II | Previous Application |
| Appendix III | Government Departments' General Comments |
| Appendix IV | Recommended Advisory Clauses |
| Appendices Va to Vd | Public Comments |
| Drawing A-1 | Proposed Layout Plan |
| Drawing A-2 | Proposed Land Filling Plan |
| Plan A-1 | Location Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | UAV Photo |
| Plan A-4 | Site Photos |