

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MUP/166

- Applicant** : Good Kind Investment Limited represented by Metro Planning and Development Company Limited
- Site** : Lots 813 (Part), 823 S.B RP and 824 S.B RP (Part) in D.D. 46, Sha Tau Kok, New Territories
- Site Area** : 1,600m² (about)
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Man Uk Pin Outline Zoning Plan No. S/NE-MUP/11
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Animal Boarding Establishment (Dog Kennel) for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary animal boarding establishment (dog kennel) for a period of three 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, ‘Animal Boarding Establishment’ is a Column 2 use in the “AGR” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by a single-storey structure.
- 1.2 The Site is accessible via Sha Tau Kok Road (Wo Hang Section) (**Plan A-2**). According to the applicant, the proposed development comprises one single-storey temporary structure not exceeding 4m in height with a total floor area of about 1,050m² for dog kennel, site office and toilet uses. Four private car parking spaces (5m x 2.5m each) including one reserved for staff and a loading/unloading space (7m x 3.5m) for light goods vehicles are proposed (**Drawing A-1**). The proposed development will operate between 9:00a.m. to 7:00p.m. daily. Not more than 48 dogs will be housed at the Site. Three staff will stay overnight at the Site after operation hours to take care of the dogs. There will be a maximum of 12 visitors on the Site per day. According to the applicant, no public announcement system and whistle blowing will be used at the Site. All dogs will be kept inside the enclosed structures equipped with soundproofing materials and mechanical ventilation and air conditioning. The proposed layout plan submitted by the applicant is shown in **Drawing A-1**.

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

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|-----|--|---------------|
| (a) | Application Form with Attachments received on 3.5.2022 | (Appendix I) |
| (b) | Further Information (FI) received on 2.8.2022 | (Appendix Ia) |
| (c) | FI received on 17.11.2022 | (Appendix Ib) |
| (d) | FI received on 21.12.2022 | (Appendix Ic) |

1.4 On 24.6.2022 and 23.9.2022, the Committee agreed to the applicant's requests to defer making a decision on the application for two months to allow more time for the applicant to address departmental comments.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I to Ic** respectively, and are summarized as follows:

- (a) the proposed temporary animal boarding establishment is temporary in nature and would not frustrate the long-term planning intention of the "AGR" zone;
- (b) the nature, layout, form, and scale of the proposed development is not incompatible with the surrounding environment. Similar animal boarding establishment applications were approved within "AGR" zones on other OZPs;
- (c) the Site has been vacated and the existing structures would be demolished to make way for the proposed development;
- (d) the enclosed structures will be equipped with soundproofing materials, mechanical ventilation and air-conditioning systems. No public announcement system will be used at the Site;
- (e) no adverse environmental and traffic impacts on the surroundings. Drainage proposal is submitted in support of the application and no adverse drainage impact is anticipated; and
- (f) the applicant would follow the relevant mitigation measures and requirements set out in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage sites" (CoP) and ProPECC PN 5/93.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is the sole "current land owner". Detailed information would be deposited at the meeting for Members' inspection.

4. Background

Part of the Site is the subject of planning enforcement action against unauthorized development (UD) involving unauthorized storage use (**Plan A-2**). Enforcement Notice was issued on 24.10.2022 requiring discontinuance of the UD on the Site by 24.11.2022. Site inspection after the expiry of the EN revealed that storage items were largely removed from the Site. The Site would be kept under close monitoring to ascertain the discontinuation of the UD.

5. Previous Applications

- 5.1 The Site, in part or in whole, is the subject of four previous applications (No. A/NE-MUP/19, A/NE-MUP/54, A/NE-MUP/152 and A/NE-MUP/154) for different uses (i.e. open storage of ceramic tiles, temporary warehouse for storage of ceramic tiles and proposed temporary shop and services). Applications (No. A/NE-MUP/19, A/NE-MUP/54 and A/NE-MUP/152) were submitted by different applicants, while the remaining application No. A/NE-MUP/154 was submitted by the same applicant of the current application. The said applications were rejected on review by the Board or by the Rural and New Town Planning Committee (the Committee) between 1997 and 2021, which are not relevant to the subject application.
- 5.2 Details of the previous applications are summarized at **Appendix II** and the locations are shown on **Plan A-1**.

6. Similar Application

- 6.1 There is one similar application No. A/NE-MUP/146 for the same use within the “AGR” zone in the Man Uk Pin area (**Plan A-1**). It was rejected by the Committee in 2020 on the grounds that the proposed development is not in line with the planning intention of the “AGR” zone; and the applicant fails to demonstrate that the proposed development would not cause adverse traffic impact on the surrounding areas.
- 6.2 Details of the similar application are summarized at **Appendix II** and its location is shown on **Plan A-1**.

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

- 7.1 The Site is:
- (a) flat, paved and fenced off; and
 - (b) accessible via Sha Tau Kok Road – Wo Hang (**Plan A-2**).
- 7.2 The surrounding areas are generally rural in character and surrounded by temporary domestic structures, vacant land, warehouse/open storage uses and active/fallow agricultural 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 Departments

- 9.1 Apart from the government department as set out in paragraph 9.2 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided at **Appendices III** and **IV** respectively.

9.2 The following government department has relayed the following comments on the application.

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

- he has consulted the locals regarding the application. The Resident Representative (RR) of Loi Tung supports the application. The Chairman of Sha Tau Kok District Rural Committee and the RR of Man Uk Pin object to the application mainly on the grounds that the proposed development is in large scale, and would cause adverse drainage and noise impacts on the surroundings. The incumbent North District Councillor of N16 Constituency objects to the application. The Chairman of Lung Shan Area Committee raises concerns on the noise and hygiene impacts caused by the proposed use. The Indigenous Inhabitant Representative (IIR) of Loi Tung and Man Uk Pin has no comment on the application.

10. Public Comments Received During Statutory Publication Period (Appendix V)

On 10.5.2022, the application was published for public inspection. During the statutory public inspection period, three public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The Kadoorie Farm and Botanic Garden Corporation and an individual object to the application mainly on the grounds that approval of the application would set an undesirable precedent of landscape character alteration; the proposed development would cause traffic and environmental impacts and hygiene concern on the surrounding areas; and the proposed development is not in line with the planning intention of the “AGR” zone.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary animal boarding establishment (dog kennel) for a period of three years at the Site zoned “AGR” on the OZP. 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 advises that the Site possesses potential for agricultural rehabilitation and can be used as green houses or plant nurseries, etc., though whether there will be agricultural activities on a specific site will hinge on a lot of factors. Nevertheless, approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “AGR” zone.
- 11.2 The Site is hard-paved and is situated in an area of rural landscape character comprising active/fallow farmlands, warehouses and temporary structures (**Plan A-2**). CTP/UD&L, PlanD considers the proposed use is not entirely incompatible with the surrounding environment. Significant adverse impact on existing landscape resources arising from the proposed use is not anticipated. Hence, she has no objection to the application from the landscape planning perspective.
- 11.3 The Site is accessible via Sha Tau Kok Road – Wo Hang (**Plan A-2**). C for T has no comment on the application from the traffic engineering perspective and considers that the traffic impact induced by the temporary development is tolerable. DEP has no

objection to the application subject to relevant approval conditions being imposed and advises that the applicant should follow the latest CoP to minimize any potential environmental impacts. Other relevant departments consulted, including D of FS, CE/MN of DSD and CE/C of WSD have no adverse comment on/no objection to the application.

- 11.4 There is one similar application No. A/NE-MUP/146 for the same use which was rejected by the Committee in 2020 mainly on the grounds that the applicant failed to demonstrate that the proposed development would not cause adverse traffic impact on the surrounding areas. The planning circumstances of the current application are different from the similar application.
- 11.5 Regarding the local comments conveyed by DO(N) of HAD and public comment on the application as detailed in paragraphs 9.2.1 and 10 above, government departments' comments and planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the local comments conveyed by DO(N), HAD and public comments as detailed in paragraphs 9.2.1 and 10 above, the Planning Department 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 3 years until 13.1.2026. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) all animals should be kept inside the enclosed structures on the Site, as proposed by the applicant, during the planning approval period;
- (c) 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;
- (d) the submission of proposals for water supplies for fire-fighting and fire service installations 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 13.7.2023;
- (e) in relation to (d) above, the implementation of proposals for water supplies for fire-fighting and fire service installations 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 13.10.2023;
- (f) the implementation of drainage facilities, as proposed by the applicant, 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 13.10.2023;

- (g) in relation to (f) above, the implemented drainage facilities at the Site should be maintained at all times during the planning approval period;
- (h) the submission of a run-in/run-out proposal within 6 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 13.7.2023;
- (i) in relation to (h) above, the implementation of run-in/run-out proposal within 9 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 13.10.2023;
- (j) if the above planning condition (a), (b), (c) 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 (d), (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 the 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 IV**.

12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Member's 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 planning justifications in the submission for a departure from such 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 the 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 received on 3.5.2022

Appendix Ia	FI received on 2.8.2022
Appendix Ib	FI received on 17.11.2022
Appendix Ic	FI received on 21.12.2022
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

PLANNING DEPARTMENT
JANUARY 2023