

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/584

- Applicant** : Mr. YE Mao Yan represented by Metro Planning and Development Company Limited
- Site** : Lot 1438 in D.D. 118 and Adjoining Government Land (GL), Tai Shu Ha Road West, Yuen Long, New Territories
- Site Area** : 590.2 m² (about) (including GL of about 135.5 m²)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Tai Tong (TT) Outline Zoning Plan (OZP) No. S/YL-TT/19 (currently in force)
- Approved TT OZP No. S/YL-TT/18 (at the time of submission)
[No change to the zoning of the application site on the OZP]
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Animal Boarding Establishment for a Period of 3 Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary animal boarding establishment for a period of three years and associated filling of land at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for the “AGR” zone, both ‘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 vacant (**Plans A-2 to A-4b**).
- 1.2 According to the applicant, the proposed animal boarding establishment will be used for a dog kennel. Not more than 24 dogs will be kept at the Site at the same time and all the dogs will be kept inside enclosed structures equipped with soundproofing materials, mechanical ventilation and air-conditioning system. The dogs will be transferred away from the Site after operation hours (i.e. 6:00 p.m. to 9:00 a.m. daily). The applicant pledges that no public announcement system will be used at the Site. The proposed land filling is to accommodate the proposed structures, parking and manoeuvring space. All waste water generated at the Site would be treated and disposed at the proposed septic tank system. Plans showing

the vehicular access leading to the Site, site layout, drainage proposal and extent of site paving 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 590.2 m ² (including GL of about 135.5 m ²)
Total Floor Area	About 380 m ²
Extent of Filling of Land	About 590.2 m ² (i.e. the entire Site, with a depth of about 0.2m)
No. of Structures	3 (for dog kennels and toilet)
Height of Structures	1 storey (not exceeding 4m)
No. of Parking Space(s)	3 for private cars (5m x 2.5m each)
No. of Loading/ Unloading Space	Nil
Operation Hours	9:00 a.m. to 6:00 p.m. daily

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

- (a) Application Form with attachments received on 4.1.2023 **(Appendix I)**
- (b) Further Information (FI) received on 19.1.2023* **(Appendix Ia)**
- (c) FI received on 20.2.2023* **(Appendix Ib)**
* *accepted and exempted from publication requirements*

2. **Justifications from the Applicant**

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

- (a) the temporary proposal would not jeopardise the long-term planning intention of the “AGR” zone. The proposed use is compatible with the surrounding environment. Similar applications have been approved in the subject “AGR” zone and other rural areas in Yuen Long;
- (b) the dog kennel will be maintained in a sanitary condition with proper excreta and waste disposal, regular pest control, and adequate supplies of potable water; and
- (c) the applicant will follow the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (“Code of Practice”). Should the application be approved, a discharge licence under the Water Pollution Control Ordinance would be obtained for effluent discharges. All the drainage facilities at the Site will be provided and maintained at the applicant’s own expense. The proposed development will not create significant adverse traffic, environmental and drainage impacts to the surrounding areas.

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 site notice 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. For GL, the requirements as set out in TPB PG-No. 31A are not applicable.

4. **Background**

The Site is currently not subject to any planning enforcement action.

5. **Previous Application**

The Site involves one previous application (No. A/YL-TT/425) for proposed religious institution (shrine) which is not relevant to the current application. Details of the application are summarised in **Appendix II** and the location of the site is shown on **Plan A-1**.

6. **Similar Applications**

- 6.1 There are seven similar applications (No. A/YL-TT/512, 525, 551, 562, 573, 574 and 582) for proposed temporary animal boarding establishment (dog kennel) (with associated filling of land for No. A/YL-TT/551, 573, 574 and 582) within the subject “AGR” zone, which were all approved with conditions by the Rural and Town Planning Committee (the Committee) of the Board each for a period of three or five years between 2021 and 2023, mainly on the considerations that approval of the applications on a temporary basis would not frustrate the long-term planning intention of the “AGR” zone; the proposals were generally not incompatible with the surrounding areas; and the departmental concerns could be addressed by imposing approval conditions. Details of the applications are summarised in **Appendix II** and the location of the sites are shown on **Plan A-1**.
- 6.2 For Members’ information, application No. A/YL-TT/577 (for proposed temporary animal boarding establishment for a period of three years and associated filling of land) within the same “AGR” zone will also be considered at this meeting (**Plan A-1**).

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

7.1 The Site is:

- (a) accessible from Tai Shu Ha Road West to its west via a local track (**Plan A-2** and **Drawing A-1**); and
- (b) currently vacant (**Plans A-2** to **A-4b**).

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

- (a) mixed in character with predominantly vacant land/structures intermixed with unused land, graves, open storage/storage yards, warehouses, an orchard, cultivated agricultural land, plant nurseries, burial urns and residential structures; and
- (b) the open storage/storage yards and warehouses in the vicinity are suspected unauthorized developments subject to planning enforcement action.

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, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities in the subject “AGR” zone.

9. Comments from Relevant Government Departments

All 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 in **Appendices III** and **IV** respectively.

10. Public Comments Received During the Statutory Publication Period

On 10.1.2023, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received. One individual objects to the application, and suspects the intention of the applicant is to fill in the entire site; and farm land should be protected from exploitation (**Appendix V-1**). The Kadoorie Farm and Botanic Garden Corporation has adverse comments on the application that the proposal is not in line with the planning intention of the “AGR” zone and urges the Board to reject the application considering the potential cumulative impacts of approving similar applications in the subject “AGR” zone (**Appendix V-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary animal boarding establishment for a period of three years and associated filling of land at the Site zoned “AGR” on the OZP. Although 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 comment from animal management and nature conservation perspectives. In view of the relatively small scale and nature of the proposed use, and with the imposition of approval condition requiring reinstatement of the Site upon expiry of the planning permission, approval of the application on a temporary basis of three years will not jeopardise the long-term planning intention of the “AGR” zone.

- 11.2 While filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas, the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) and Director of Environmental Protection (DEP) have no objection to the application from drainage and environmental perspectives.
- 11.3 The proposed use is generally not incompatible with the surrounding uses, which comprise predominantly vacant land/structures, unused land, graves, open storage/storage yards and warehouses (**Plan A-2**).
- 11.4 Concerned government departments, including the Commissioner for Transport, DEP, CE/MN, DSD and Chief Town Planner/Urban Design and Landscape, Planning Department have no objection to/no adverse comment on the application. Significant adverse traffic, environmental, drainage and landscape impacts arising from the proposal are not envisaged. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to address the technical requirements of concerned government departments. The applicant will also be advised to adhere to the latest “Code of Practice” and to provide adequate supporting infrastructure/facilities for proper collection, treatment and disposal of waste/wastewater, and to meet the relevant pollution control ordinances.
- 11.5 Seven similar applications (four with associated filling of land) within the subject “AGR” zone have been approved since 2021 on the grounds that approval of the applications on a temporary basis would not frustrate the long-term planning intention of the “AGR” zone; the proposals were generally not incompatible with the surrounding areas; and the departmental concerns could be addressed by imposing approval conditions. Approval of the current application is generally in line with the Committee’s previous decisions.
- 11.6 There were two public comments objecting to/providing adverse comments on the application received during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.5 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 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 three years until 3.3.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the animals shall be kept inside enclosed structures with soundproofing materials, mechanical ventilation and air-conditioning systems, as proposed by the applicant, at any time 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 at the Site,

as proposed by the applicant, at any time during the planning approval period;

- (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 3.9.2023;
- (d) in relation to (c) above, the implementation of the revised 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 3.12.2023;
- (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 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 3.9.2023;
- (g) in relation to (f) above, the implementation of the 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 3.12.2023;
- (h) if any of the above planning condition (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 condition (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 IV**.

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

- (a) the proposed use 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; and
- (b) the applicant fails to demonstrate in the submission that the proposed land filling is essential for the proposed use.

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 Attachments received on 4.1.2023
Appendix Ia	FI received on 19.1.2023
Appendix Ib	FI received on 20.2.2023
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendices V-1 and V-2	Public Comments
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Drainage Proposal
Drawing A-4	Site Paving Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2023**