

RNTPC Paper No. A/YL-KTN/1007
For Consideration by
the Rural and New Town
Planning Committee
on 24.5.2024

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/1007

Applicant : Consense Development Limited

Site : Lots 201 (Part) and 208 in D.D. 110, Tsat Sing Kong, Kam Tin, Yuen Long, New Territories

Site Area : About 1,046m²

Land Status : Block Government Lease (demised for agricultural use)

Plan : Approved Kam Tin North Outline Zoning Plan No. S/YL-KTN/11

Zoning : “Agriculture” (“AGR”)

Application : Temporary Animal Boarding Establishment with Ancillary Facilities for a Period of Three Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary animal boarding establishment with ancillary facilities for a period of three years and filling of land at the application site (the Site), which falls within an area zoned “AGR” on the approved Kam Tin North OZP No. S/YL-KTN/11 (**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). Filling of land within the “AGR” zone also requires planning permission from the Board. The Site is currently fenced-off, paved and used for the applied use with some temporary structures without valid planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the applied use involves six single-storey structures with a total floor area of about 490m² and building heights of not more than 6m for animal boarding establishment and ancillary storage uses (**Drawing A-1**). The applicant also applies for regularisation of filling of land for the whole Site with concrete by about 0.3m (from +3.2mPD to +3.5mPD) for site formation and vehicular circulation (**Drawing A-2**).
- 1.3 The applicant states that the operation hours are from 8:00 a.m. to 6:00 p.m. (except overnight animal boarding) daily including public holidays. The animal boarding establishment will accommodate no more than 20 dogs and

other animals will not be allowed. One staff member will be stationed at the Site to support the operation of the animal boarding establishment. All dogs will be kept inside the enclosed structures built with sound proofing materials and equipped with mechanical ventilation and air conditioning systems after the operation hours. No public announcement system, whistle blowing or any form of audio amplification system will be used at the Site. One loading/unloading space for light goods vehicle will be provided within the Site. Besides, septic tank and soakaway system will be provided for handling wastewater generated from the operation of the applied use. The Site is accessible from Kong Tai Road via a local track (**Plans A-1 to A-3**). The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1 and A-2**.

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

- (a) Application form with supplementary information (Appendix I) received on 2.4.2024 and 9.4.2024
- (b) Further information (FI) received on 14.5.2024* (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, supplementary information and FI in **Appendices I and Ia**. They can be summarised as follows:

- (a) The application is on a temporary basis and its approval would not jeopardise the long term planning intention of the “AGR” zone. The applied use is not incompatible with the surrounding environment. There were also similar applications approved within the same “AGR” zone.
- (b) The filling of land is necessary for site formation and vehicular circulation purposes to meet the operational needs of the applied use. The applicant undertakes to reinstate the Site upon expiry of the planning approval.
- (c) All dogs will wear dog masks while staying outdoor to minimise the noise generated. Septic tank and soakaway system will be provided within the Site to handle wastewater generated from the operation of the applied use at the Site. Approval of the application would not induce adverse environmental, traffic and drainage impacts on 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. 31B) by posting site notice and sending

notification letter to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members' inspection.

4. **Background**

The Site is currently subject to planning enforcement action (No. E/YL-KTN/645) against unauthorised development (UD) involving use for place for animal establishment (**Plan A-2**). Enforcement Notice was issued on 4.1.2024 to the concerned parties requiring discontinuation of the UD. Site inspection on 9.4.2024 revealed that the UD still continued upon expiry of the notice. The Planning Authority will consider to instigate prosecution action as appropriate.

5. **Previous Application**

There is no previous application at the Site.

6. **Similar Applications**

6.1 There are 29 similar applications involving 23 sites for temporary animal boarding establishment (including four renewals of temporary permissions and 16 with filling of land) within the same "AGR" zone in the vicinity of the Site in the past five years. All these applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board between February 2019 and December 2023 mainly on the considerations that temporary approval would not frustrate the long-term planning intention or the proposed use on a temporary basis could be tolerated; the development was not incompatible with the surrounding land uses; and relevant departments consulted in general had no adverse comment on the application and/or or their concerns could be addressed by relevant approval conditions. The planning permissions for 14 of the approved applications were revoked subsequently due to non-compliance with the approval conditions.

6.2 Details of the similar applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

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

7.1 The Site is:

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

7.2 The surrounding areas are rural in character mainly intermixed with vacant land (including a site with valid planning permission for proposed temporary animal boarding establishment under application No. A/YL-KTN/923),

animal boarding establishment (with valid planning permission under application No. A/YL-KTN/747), open storage/storage yards (without valid planning permission), chicken shed, grassland, farmland, plant nursery and residential structures/dwellings.

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

All government departments consulted have no objection to or no adverse comments 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 Comment Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory public inspection period, one public comment from an individual was received objecting to the application mainly on the grounds that the applicant’s intention is for extension of warehouse use.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary animal boarding establishment with ancillary facilities for a period of three years and filling of land at the Site zoned “AGR” (**Plan A-1**). The planning intention of the “AGR” zone is primarily to retain and safeguard good 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. The Director of Agriculture, Fisheries and Conservation considers that the Site can be rehabilitated for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc., though whether there will be agricultural activities on specific site will hinge on a lot of factors. Taking into account the planning assessments below, the applied use on a temporary basis of three years could be tolerated.
- 11.2 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. In this regard, the Chief Engineer/Mainland North of Drainage Services Department and the Director of Environmental Protection have no objection to the application from drainage and environmental perspectives. An approval condition requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.

- 11.3 The applied use is considered not incompatible with the surrounding land uses which are rural in character intermixed with animal boarding establishment, vacant land with planning permission for animal boarding establishment, grassland, farmland, open storage/storage yards and residential structures/dwellings. The Chief Town Planner/Urban Design and Landscape of the Planning Department has no objection to the application from landscape planning perspective considering that significant adverse landscape impact arising from the applied use is not anticipated.
- 11.4 Other relevant departments consulted, including the Commissioner for Transport and the Director of Fire Services, have no objection to or no adverse comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised to follow the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by Environmental Protection Department (EPD) to minimise any possible environmental nuisance, and the relevant Practice Note for Professional Person PN 1/23 on “Drainage Plans subject to Comment by EPD” including completion of percolation test and certification by Authorised Person if septic tank and soakaway system will be used.
- 11.5 There are 29 approved similar applications for temporary animal boarding establishment with/without filling of land within the same “AGR” zone in the vicinity of the Site in the past five years as stated in paragraph 6.1 above. Approving the current application is in line with the Committee’s previous decisions.
- 11.6 Regarding the public comment mentioned in paragraph 10, the application contains no information indicating that the applicant’s intention is for extension of warehouse use.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment 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 24.5.2027. The following approval conditions and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 8:00 a.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 structures on the site from 6:00 p.m. and 8:00 a.m., 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, during the planning approval period;
- (d) the submission of a 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 24.11.2024;
- (e) in relation to (d) above, the implementation of the 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 24.2.2025;
- (f) in relation to (e) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (g) 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 24.11.2024;
- (h) in relation to (g) 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 24.2.2025;
- (i) if any of the above planning condition (a), (b), (c) or (f) 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;
- (j) if any of the above planning condition (d), (e), (g) or (h) 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
- (k) 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 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 applied use with 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. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification 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 supplementary information received on 2.4.2024 and 9.4.2024
Appendix Ia	FI received on 14.5.2024
Appendix II	Similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comment
Drawing A-1	Site layout plan
Drawing A-2	Land filling plan

Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
MAY 2024**