

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTN/722**

**Applicant** : Mr. LEE Kai Keung Simon represented by Metro Planning and Development Company Limited

**Site** : Lots 207 S.A (Part), 207 S.B (Part) & 218 (Part) in D.D. 110, Tai Kong Po, Kam Tin, Yuen Long

**Site Area** : 840m<sup>2</sup>

**Lease** : Block Government Lease (demised for agricultural use)

**Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9

**Zoning** : “Agriculture” (“AGR”)

**Application** : Proposed Temporary Animal Boarding Establishment (Dog Kennel) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary animal boarding establishment (dog kennel) for a period of 3 years. According to the Notes of the OZP, ‘Animal Boarding Establishment’ is a Column 2 use in “AGR” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently used for storage/ open storage without planning permission (**Plans A-2 and A-4**).
- 1.2 The Site is subject to a previous application No. A/YL-KTN/556 for proposed temporary dog kennel cum dog recreation centre for a period of 3 years. It was approved with conditions by the Rural and New Town Planning Committee (the Committee) in 2017. However, the planning permission was revoked in 2019 due to non-compliance with approval conditions.
- 1.3 The proposed development involves 4 single-storey temporary structures with a total floor area of about 110m<sup>2</sup> and building height of not more than 4m for dog kennel, site office, electricity meter room and toilet uses. 4 private car parking spaces will be provided within the Site. The proposed use will operate from 9:00 a.m. to 7:00 p.m. daily, including public holidays and all dogs will leave the Site after the operation hours. According to the applicant, not more than 6 dogs will be accommodated at the Site. No public announcement system and whistle blowing will be used at the Site. All

dogs will be kept indoor at all times and the structures will be enclosed with soundproofing materials and provided with mechanical ventilation and air-conditioning system. The Site is accessible via a local access branching off from Kong Po Road and Chi Ho Road. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.4 Compared with the previous approved application (No. A/YL-KTN/556), the current application is submitted by a different applicant for similar use, with reduction in the site area from 1,936m<sup>2</sup> to 840m<sup>2</sup> (-1,096m<sup>2</sup>/ -56.6%) and the floor area from 510m<sup>2</sup> to 110m<sup>2</sup> (-400m<sup>2</sup>/ -78.4%), and change in layout.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary statement and plans received on 23.7.2020 **(Appendix I)**
  - (b) Further Information (FI) received on 17.11.2020 in response to departmental comments\* **(Appendix Ia)**
  - (c) FI received on 5.3.2021 in response to departmental comments\* **(Appendix Ib)**
  - (d) FI received on 16.4.2021 in response to departmental comments\* **(Appendix Ic)**
  - (e) FI received on 20.4.2021 in response to departmental comments\* **(Appendix Id)**
- \* exempted from publication requirement
- 1.6 At the request of the applicant, the Committee agreed to defer consideration of the application on 18.9.2020 and 8.1.2021 to allow time for the applicant to prepare FI to address the departmental comments. After the deferral request, the applicant submitted FIs in response to departments' comments. The application is scheduled for consideration by the Committee at this meeting.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the planning statement in **Appendix I**. They can be summarized as follows:

- (a) The proposed development is temporary in nature and would not frustrate the long-term planning intention of the "AGR" zone. It is not incompatible with the surrounding development.
- (b) Similar animal boarding establishment applications were approved in the same "AGR" zone and the Site involves one previous application for similar use. The original lot has been subdivided into 3 separate lots and owned by different owners, thus a fresh application is submitted. The applicant commits to comply with the approval conditions if approval is granted.

- (c) No significant traffic, environmental and drainage impacts are foreseen. Landscape and drainage proposals are submitted in the current application. The applicant will apply a license for effluent discharge and will follow the relevant mitigation measures and requirements under the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. Measures (regular removal of excreta and other waste, control of insects, etc.) will be adopted to ensure that the dog kennel will be maintained in a sanitary condition.

### 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 posting notice at the Site and sending registered mail to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

### 4. **Background**

According to recent site inspection, open storage of construction materials, some vehicles and containers were observed within the Site. Should there be sufficient evidence to prove that the current operation on the Site constitutes an unauthorized development under the Town Planning Ordinance, enforcement action will be taken.

### 5. **Previous Application**

The Site is subject to one previous application (No. A/YL-KTN/556) covering a larger site submitted by a different applicant for proposed temporary animal boarding establishment (dog kennel cum dog recreational centre), which was approved with conditions by the Committee on 28.4.2017 for a period of 3 years for the reasons that temporary approval would not frustrate the long-term planning intention of the “AGR” zone; and the development was not incompatible with the surrounding area. The applicant complied with the approval conditions on submission of landscape, drainage and fire service installations (FSIs) proposals and implementation of FSI proposal. However, due to non-compliance of approval conditions on the implementation of landscape and drainage proposals, the planning permission was revoked on 28.7.2019. Details of the previous application are summarized in **Appendix II** and its location is shown on **Plan A-1**.

### 6. **Similar Applications**

- 6.1 There are 44 similar applications for temporary animal boarding establishment involving 31 sites within the same “AGR” zone. Except application No. A/YL-KTN/156 which was rejected by the Committee, the remaining 43 applications were approved with conditions by the Committee. Details of these applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.

### *One Rejected Application*

- 6.2 Application No. A/YL-KTN/156 for proposed dog kennel for a period of 3 years was rejected by the Committee on 8.11.2002 on the grounds that the proposed development was not in line with the planning intention of the “AGR” zone; and there was no information in the submission to demonstrate that the proposed development would not cause adverse environmental and drainage impacts on the surrounding areas.

### *43 Approved Applications*

- 6.3 43 applications at 30 sites were approved with conditions by the Committee for 2 to 5 years between 2005 and April 2021 for similar reasons that temporary approval would not frustrate the long-term planning intention of the “AGR” zone; the developments were not incompatible with the surrounding land uses; previous approvals were granted and the applicants had made effort to comply with the approval conditions; and/or the relevant government departments generally had no adverse comments on the developments. However, planning permissions for 16 applications were revoked due to non-compliance with approval conditions.
- 6.4 Apart from the above similar applications which have been considered by the Committee, Application No. A/YL-KTN/757 for proposed temporary animal boarding establishment for a period of 3 years within the same “AGR” zone will be considered at the same meeting.

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

### **7.1 The Site is:**

- (a) hard paved and used for storage/open storage without planning permission; and
- (b) accessible via a local access branching off from Kong Po Road and Chi Ho Road.

### **7.2 The surrounding areas are rural in character intermixed with residential structures/dwellings, open storage/storage yards, fallow agricultural land, a plant nursery, a chicken shed and vacant/unused land:**

- (a) to its east, north and west are open storage/storage yards (a site to the immediate north is subject to planning permission for animal boarding establishment), a residential structure/dwelling (about 100m on the northeast), a chicken shed, fallow agricultural land and vacant/unused land; and
- (b) to its south are fallow agricultural land, a plant nursery and scattered residential structures/ dwellings (the nearest about 50m away).

## **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 The following Government departments have been consulted and their views on the application are summarized as follows:

### **Land Administration**

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

- (a) The Site comprises Old Schedule Agricultural Lots 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.
- (b) Within the Site, the private lots are covered by the following Short Term Waivers (STWs):

STW No.	Lot No.	Permitted Use
STW4898	207 S.A	Temporary Animal Boarding
STW4900	207 S.B	Establishment (Dog Kennel)

- (c) Should planning approval be given to the planning application, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate and the lot owner(s) of the lot(s) without STW will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

### **Traffic**

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by his department. The land status of

the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) His department shall not be responsible for the maintenance of any access connecting the Site and Chi Ho Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

**Environment**

9.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) There was no environmental complaint concerning the Site received in the past three years.
- (b) Provided that the facilities will be properly designed and maintained to minimize any potential environmental nuisance, he has no objection to the application subject to the following approval conditions:
  - (i) No dog shall be stayed at the Site after the operation hours (i.e. 7:00pm to 9:00am) as proposed by the applicant.
  - (ii) No public announcement system, portable loudspeaker, any form of audio amplification system or whistle blowing is allowed to be used on the Site.
- (c) The applicant is advised to properly design and maintain the facilities to minimize any potential environmental nuisance, e.g. the proposed structures for animal boarding establishment (including the dog kennel and toilet) should be enclosed with soundproofing materials with provision of 24-hour mechanical ventilation and air-conditional system. The applicant is also advised to follow (i) the requirement stipulated in “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site”; and (ii) effluent discharges from the Site are subject to control under the Water Pollution Control Ordinance (WPCO). If connection to public sewers is not feasible, septic tank and soakaway system can be used. Its design, construction and operation should follow the Environmental Protection Department (EPD)’s requirements of Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” including percolation test, with certification by the Authorized Person.

**Landscape**

9.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) He has no objection to the application from the landscape planning point of view.
- (b) The Site is located to the south of Lam Tsuen Country Park and to the west of Tsat Sing Kong. With reference to the aerial photo taken in 2020, the Site is situated in an area of rural inland plains landscape character comprising of temporary structures, scattered tree groups, and farmlands. Previous planning application (No. A/YL-KTN/672) within the same zone in the proximity to the Site for similar use was approved, the proposed use is considered not entirely incompatible with the surrounding landscape setting. According to the site photo taken in March 2021, the Site is fenced off, hard paved with existing structures and in operation as open storage of vehicles and construction materials. In view that the proposed development is not in conflict with the existing trees along the periphery of the site boundary, significant impact on existing landscape resources within the Site arising from the proposed use is not anticipated.
- (c) Should the application be approved, the approval condition requiring maintenance of all the existing trees within the Site in good condition at all times during the planning approval period is recommended in the planning permission.

### **Agriculture and Nature Conservation**

#### **9.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):**

- (a) Agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as greenhouses, plant nurseries, etc.. As the Site possesses a potential for agricultural rehabilitation, the application is not supported from agricultural point of view.
- (b) Nevertheless, he has no comment from nature conservation and animal boarding licence aspects. The Site does not associate with any licence granted by his department, nor has he received any application regarding the Site. Under the Public Health (Animals) (Boarding Establishment) Regulations, Cap. 139I, any person who provides food and accommodation for animals in return for a fee paid by the owner must apply for a Boarding Establishment Licence from his department. He will provide detailed information and guidance on Animal Boarding Establishment when the applicant submits the licence application.

### **Drainage**

#### **9.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):**

- (a) He has no in-principle objection to the development from the public drainage point of view.

- (b) The submitted drainage proposal is considered acceptable. Should the application be approved, approval conditions requiring the implementation of the accepted drainage proposal and maintenance of the drainage facilities should be included.

### **Fire Safety**

#### 9.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to FSIs being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Building Matters**

#### 9.1.9 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) Before any new building works (including containers/ open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) His detailed comments on UBW and provision of access are at **Appendix V**.

### **Environmental Hygiene**

#### 9.1.10 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) Proper license/ permit issued by his department is required if there is any food business/ catering service/ activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public and the operation of any business should not cause any obstruction.
- (b) If the proposal involves any commercial/ trading activities, there should be no encroachment on the public place and no environmental nuisance



should be generated to the surroundings. Its state should not be a nuisance or injurious or dangerous to health and surrounding environment. Also, for any waste generated from the activities in the premises, the applicant should handle on their own/ at their expenses.

- (c) Any animal carcass/ parts shall be properly wrapped or bagged before disposal.

### **District Officer's Comments**

9.1.11 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

He has not received any locals' comment on the application and has no comment on the application.

9.2 The following Government departments have no comment on/ no objection to the application:

- (a) Director of Electrical and Mechanical Services;
- (b) Chief Engineer/Construction, Water Supplies Department
- (c) Project Manager (West), Civil Engineering and Development Department; and
- (d) Commissioner of Police.

## **10. Public Comments Received During Statutory Publication Period**

On 21.7.2020, the application was published for public inspection. During the three-week statutory publication period, 2 public comments were received from the Village Office of Pat Heung Tai Kong Po Tsuen and an individual (**Appendices IV-1 and IV-2**). They object to the application mainly on the grounds that the proposed development will cause nuisance, overload the road capacity and cause adverse traffic impact, and affect safety of the villagers; the previous approval was revoked due to non-compliance with approval conditions; and the applicant is not trustworthy and the operation is dubious.

## **11. Planning Considerations and Assessments**

11.1 The application is for proposed temporary animal boarding establishment (dog kennel) for a period of 3 years within "AGR" zone. The planning intention of the "AGR" zone 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. The proposed use is not entirely in line with the planning intention of the "AGR" zone and DAFC does not support the application from the agricultural point of view as the Site possesses potential for agricultural rehabilitation. Nevertheless, it is considered that approval of the application on a temporary basis for a period of 3 years would not jeopardize the long-term planning intention of the "AGR" zone.

11.2 The proposed use is considered not incompatible with the surrounding area which is rural in character and intermixed with residential structures/dwellings, fallow/ cultivated agriculture land, and vacant/ unused land. Although there are sensitive receivers, i.e.

residential structures in the vicinity of the Site (the nearest about 50m away to its south) (**Plan A-2**), the applicant advises that no dog will stay at the Site after operation hour and all the dogs will be kept within the enclosed structures at all times. The structures will be enclosed with soundproofing material and equipped with mechanical ventilation and air conditioning. In addition, no public announcement system and whistle blowing will be used at the Site. DEP has no adverse comment on the application.

- 11.3 Relevant departments consulted including C for T, DEP, CE/MN of DSD, D of FS and CTP/UD&L of PlanD (except DAFC) have no adverse comment on the application. To minimise any possible environmental nuisance, approval conditions restricting the operation hours, and prohibiting outdoor animal activities and use of public announcement system and whistle blowing are recommended in paragraphs 12.2 (a) to (c) below. The applicant will also be advised to adopt the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites'. The technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD, and D of FS could be addressed by appropriate approval conditions recommended in paragraph 12.2 below.
- 11.4 The Site is subject to a previous application (No. A/YL-KTN/556) for similar use submitted by a different applicant which was approved with conditions by the Committee in 2017. While the conditions on submission of landscape, drainage and FSIs proposals and implementation of FSIs proposal have been complied with, the planning permission was revoked in 2019 due to non-compliance with approval conditions on the implementation of landscape and drainage proposals. The current application is submitted by a different applicant with a smaller site area and different layout. There are also 44 similar applications within the same "AGR" zone. 43 of them were approved with conditions by the Committee between 2005 and 2021 as detailed in paragraph 6.3. The circumstances of the only rejected application are different from the current one. The approval of the current application is hence in line with the Committee's previous decisions.
- 11.5 Two public comments objecting to the application were received during the statutory publication period as stated in paragraph 10 above. In this regard, the departmental comments as well as planning considerations and assessments as stated 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 in paragraph 10, the Planning Department has no objection to the proposed temporary animal boarding establishment (dog kennel) for a period of 3 years.
- 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 30.4.2024. The following conditions of approval and advisory clauses are also 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 shall be kept inside the enclosed structures on the Site, as proposed by the applicant, at all times during the planning approval period;
- (c) no public announcement system, portable loudspeaker, any form of audio amplification system, or whistle blowing is allowed to be used on the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) all existing trees within the Site shall be maintained in good condition at all times during the planning approval period;
- (f) the implementation of the accepted drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or the Town Planning Board by 30.10.2021;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or the Town Planning Board by 30.10.2021;
- (i) in relation to (h) 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 30.1.2022;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e) or (g) is not complied with during 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 conditions (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 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 at **Appendix V**.

- 12.3 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. It is also intended 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**

<b>Appendix I</b>	Application form with supplementary statement and plans received on 23.7.2020
<b>Appendix Ia</b>	FI received on 17.11.2020
<b>Appendix Ib</b>	FI received on 5.3.2021
<b>Appendix Ic</b>	FI received on 16.4.2021
<b>Appendix Id</b>	FI received on 20.4.2021
<b>Appendix II</b>	Previous s.16 application covering the Site
<b>Appendix III</b>	Similar applications in the same “AGR” zone on the Kam Tin North OZP
<b>Appendices IV-1 and IV-2</b>	Public Comments
<b>Appendix V</b>	Advisory Clause
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan with Previous and Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
APRIL 2021**