

RNTPC Paper No. A/YL-KTN/778
For Consideration by
the Rural and New Town
Planning Committee
on 13.8.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/778

Applicant : Ms. CHOW Ngai represented by Glister Engineering Consultants Company

Site : Lots 1227 RP in D.D. 109, Kam Tin North, Yuen Long, N.T.

Site Area : About 237.7m²

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 for a Period of 5 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary animal boarding establishment for a period of 5 years and filling of land. 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 in “AGR” zone also requires planning permission from the Board. The Site is fenced and hard-paved with canopies and containers (**Plans A-2 and A-4**).
- 1.2 The proposed development involves one 1-storey structure with building height of not more than 3.5m (5.9mPD) and floor area of about 71.5m² for animal boarding establishment. The whole Site is filled with concrete by about 0.15m (from about 5.75mPD to 5.9mPD) for cleaning purpose. The operation hours will be from 10:00a.m. to 5:00p.m. daily with overnight animal boarding services. A maximum of five dogs will be accommodated at the Site. According to the applicant, all dogs will be kept inside the enclosed animal establishment most of the times and will have 2-hours outdoor activities during daytime. The structure is enclosed with soundproofing materials and equipped with mechanical ventilation and air-conditioning system. No public announcement system and whistle blowing will be used on the Site. Private car parking space and loading/unloading space for light goods vehicle will not be provided at the Site. The Site is accessible from Kong Tai Road via a local track. The layout plan submitted by the applicant is at **Drawings A-1**.

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

- (a) Application form and plans received on 23.6.2021 (Appendix I)
- (b) Further Information (FI) received on 10.8.2021 in response to departmental comments (Appendix Ia)
[exempted from publication requirement]

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the application form, plans and FI at **Appendices I and Ia**, and is briefly summarized as follows:

- (a) The proposed development is compatible with surrounding area. Similar applications with approval are found in the vicinity of the Site.
- (b) All animals will be kept inside the enclosed structure and no public announcement system and whistle blowing or portable speaker will be used within the Site. Hence, the proposed development will not generate noise nuisance to the nearby residents.

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

The applicant is the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is currently subject to an on-going planning enforcement action (No.: E/YL-KTN/544) against an unauthorized development (UD) involving workshop use and storage use (including deposit of containers). Enforcement Notice and Reinstatement Notice were issued on 16.9.2020 and 13.7.2021 respectively to the concerned parties requiring discontinuation of the UD and reinstatement of the Site.

5. **Previous Application**

The Site is not involved in any previous application.

6. **Similar Applications**

Animal Boarding Establishment

- 6.1 There are 16 similar applications for temporary animal boarding establishment and/or filling of land involving 12 sites in the vicinity of the Site within the same “AGR” zone on the Kam Tin North OZP. Except Application No. A/YL-KTN/156, which was rejected by the Committee, all the remaining 13 applications were

approved with conditions by the Committee between 2015 and 2021. Details of these applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

13 Approved Applications

- 6.2 13 applications involving 10 sites were approved with conditions by the Committee for 3 to 5 years between November 2015 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 the relevant government departments generally had no adverse comments on the applications. However, planning permissions for three applications (Nos. A/YL-KTN/478, 543 and 590) were revoked due to non-compliance with approval conditions.

One Rejected Application

- 6.3 Application No. A/YL-KTN/156 for proposed small scale dog kennel for a period of 3 years was rejected by the Committee on 8.11.2002 mainly for the reasons that the proposed development was not in line with the planning intention of the “AGR” zone; there was no strong justification in the submission for a departure from such planning intention, even on a temporary basis; 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 area. In particular, Environmental Protection Department (EPD) did not support the application from environmental point of view as no noise mitigation measure was proposed.
- 6.4 Apart from the above similar applications which have been considered by the Committee, Application No. A/YL-KTN/779 for proposed temporary animal boarding establishment with ancillary facilities for a period of 3 years within the same “AGR” zone will be considered at the same meeting.

Filling of Land

- 6.5 There are two similar applications approved by the Committee in January 2020 and November 2020 both involving the same site for filling of land in the vicinity of the Site within the same “AGR” zone (**Plan A-1**). Both are for temporary hobby farm for a period of 3 years (Applications No. A/YL-KTN/691 and 726), which involved filling of about 29.8% of the site area and with a depth of 0.5m. The two applications were approved by the Committee for the 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; and relevant government departments generally had no adverse comments on the developments. However, planning permission for Application No. A/YL-KTN/691 was revoked due to non-compliance with approval conditions.

7. The Site and Its Surrounding Areas (Plans A-2 to A-4)

7.1 The Site is:

- (a) fenced and hard-paved with canopies and containers; and
- (b) accessible from Kong Tai Road via a local track and further connected to Chi Ho Road.

7.2 The surrounding area is rural in character intermixed by a few residential structures/dwellings, a chicken farm, cultivated agricultural land, plant nursery, an open storage yard, and vacant/unused land:

- (a) to its west are residential structures/dwellings (the nearest about 15m) and a chicken farm; to its immediate north is Kong Tai Road. Further north and northwest across Kong Tai Road are residential structures/dwellings, cultivated agricultural land, an open storage yard and unused land;
- (b) to its east is Kam Tin River. Further east and northeast across the river are residential structures/dwellings, plant nursery and unused land; and
- (c) to its immediate south is vacant/unused land and further south are Kong Po Road and Kam Tin River. Further south across Kam Tin River are vacant land in “Village Type Development” zone and a residential development known as Seasons Monarch (四季名園) in “Residential (Group C) 2” zone.

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.

9. Comments from Relevant Government Department

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 Lot 1227 RP in D.D. 109 held under Tai Po New Grant. No. 6123 for agricultural purpose.

- (b) Should planning approval be given to the application, the lot owner(s) will need to apply to his office to waive the user restriction as stipulated in the lease conditions, permit the erection of structures 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 LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent 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 Transport 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) Part of Kong Tai Road is maintained by his office.
- (b) HyD is not/shall not be responsible for the maintenance of any access connecting the Site and Kong Tai Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to 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) The animals shall be kept inside the enclosed structures between 5:00p.m. and 10:00a.m. on the Site, as proposed by the applicant, during the planning approval period.
 - (ii) 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.
 - (iii) A 2m high solid (metal) wall to be erected along the Site boundary to minimize nuisance to the nearby residents, as proposed by the applicant, during the planning approval period.
- (c) Moreover, the applicant is also advised (i) that the proposed structure for animal boarding establishment should be enclosed with soundproofing materials with provision of mechanical ventilation and air-conditioning system; (ii) to follow the requirements stipulated in “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site”; (iii) to provide adequate supporting infrastructure/ facilities for proper collection, treatment and disposal of waste/ wastewater generated from the proposed use. If septic tank and soakaway system will be used in case of unavailability of public sewer, its design and construction shall follow the requirements of EPD’s Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environment Protection Department”, including percolation test; and (iv) it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances.

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 perspective.
- (b) Based on the aerial photo of 2020, the Site is situated in an area of rural inland plains landscape character predominated by low-rise residential blocks, farmlands, temporary structures, vacant lands and scattered tree groups. According to his office’s record, Applications No. A/YL-KTN/478, 638 and 725 for similar use located in the same “AGR” zone were approved in 2015, 2019 and 2021 respectively. Noting that the proposed development involves one 1-storey structure with building height of not more than 3.5m,

the proposed development is considered not entirely incompatible with the surrounding landscape setting.

- (c) Referring to photos dated 2.7.2021, the Site is fenced-off, mainly hard paved with existing temporary structures. No existing trees is found within the Site. Significant adverse impact on existing landscape resources within the Site arising from the proposed development is not anticipated.

Agriculture and Nature Conservation

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

- (a) The Site falls within the “AGR” zone and is currently a cemented vacant land. Agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water sources are also available. The Site can be used for agricultural activities such as greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application for the proposed use and land filling is not supported from agricultural point of view.
- (b) Nevertheless, he has no comment from nature conservation and animal establishment boarding licence aspects. The Site does not associate with any licence granted by his department, nor have we received any application regarding the address. 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 objection in principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning approval.

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 fire service installations 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 is required to comply with the Buildings Ordinance (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 BA should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance.
- (b) His detailed comments on UBW, provision of access, temporary or licensed structures are at **Appendix IV**.
- (c) Detailed checking under the BO will be carried out at building plan submission stage.

Environmental Hygiene

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

- (a) Proper licence / 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. Any animal carcass/ parts shall be properly wrapped or bagged before disposal and in accordance with the relevant legislation. Also, for any waste generated from the activities in the premises, the applicant should handle on their own / at their expenses.

Electricity Safety

9.1.11 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the application from electricity supply safety aspect at this stage.
- (b) In the interest of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organization, supervising and conducting any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out the updated information of whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer’s Comments

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

He has not received any comments from the locals and has no comments on the application.

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

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

10. Public Comments Received During the Statutory Publication Period

On 2.7.2021, the application was published for public inspection. During the three-week statutory publication period, two public comments from individuals have been received (**Appendix III-1 to III-2**). Both of them object to the application mainly on the grounds that the proposed development will result in adverse sewerage, noise, odour, and traffic impacts and risk in fire safety; the Site involves “destroy first, build later” practice; there

are active farming activities near the Site; and the number of animal boarding establishment applications is disproportional to the market.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary animal boarding establishment for a period of 5 years at the “AGR” zone and filling of land at the whole site by about 0.15m. 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. DAFC does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation. Nevertheless, approval of the application on a temporary basis for a period of 5 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 intermixed by some residential structures/dwellings, a chicken farm, cultivated agricultural land, plant nursery, an open storage yard, and vacant/unused land. Although there are residential dwellings/structures in the vicinity of the Site (the nearest about 15m to its west) (**Plan A-2**), the applicant stated that all the animals will be kept within the enclosed structure most of the times with 2-hours outdoor activities during daytime and the structure will be equipped with soundproofing materials and mechanical ventilation and air conditioning. In addition, no public announcement system and whistle blowing will be used at the Site. DEP has no objection to the application. Taking into account the small scale of the proposed development, the applicant state that the filling of land is for site formation of structure within the Site. CE/MN of DSD has no in-principle objection to the proposal.
- 11.3 Other relevant departments consulted, including C for T, CTP/UD&L of PlanD and D of FS, have no adverse comment on the application. To minimise any possible environmental nuisance, approval conditions restricting the operation hours and outdoor animal activities, prohibiting the use of public announcement system and whistle blowing, and providing a 2m high solid metal wall are recommended in paragraphs 12.2 (a) to (c) and (e) 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, CE/MN of DSD and D of FS could be addressed by approval conditions (d) and (f) to (j) as recommended in paragraph 12.2 below.
- 11.4 The Site is not involved in any previous application. There are 13 similar applications for temporary animal boarding establishment and 2 similar applications involving filling of land in the vicinity within the same “AGR” zone approved with conditions by the Committee between 2015 and 2021 as stated in paragraph 6 above. The circumstances of the only rejected application (No. A/YL-KTN/156) is different from the current application as stated in paragraph 6.2 above. Approval of this application is in line with the Committee’s previous decisions.

- 11.5 Two public comments were received during the statutory publication period objecting to the application as stated in paragraph 10 above. In this regard, the departmental comments and planning consideration 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 mentioned in paragraph 10 above, the Planning Department has no objection to the proposed temporary animal boarding establishment for a period of 5 years and filling of land.
- 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 5 years until 13.8.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 5:00 p.m. and 10:00 a.m. (except for 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 animal boarding establishment between 5:00p.m. and 10:00a.m. on the Site, as proposed by the applicant, 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) the provision of a 2m high solid metal wall along the site boundary within **3** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 13.11.2021;
- (f) 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 13.2.2022;
- (g) in relation to (f) 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 13.5.2022;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;

- (i) 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 13.2.2022;
- (j) in relation to (i) 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 13.5.2022;
- (k) if any of the above planning condition (a), (b), (c), (d) or (h) 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;
- (l) if any of the above planning condition (e), (f), (g), (i) or (j) 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
- (m) 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 IV**.

- 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 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

Appendix I	Application Form with Plans received on 23.6.2021
Appendix Ia	FI received on 10.8.2021
Appendix II	Similar Applications in the vicinity of the Site within the Same “AGR” Zone on the Kam Tin North OZP
Appendix III	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Layout 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
AUGUST 2021**