

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/779

Applicant : Mr. Tsoi Tak Lee represented by Goldrich Planners and Surveyors Limited

Site : Lots 1376 S.C and 1376 S.D in D.D. 109, Yuen Long, N.T.

Site Area : About 1,017 m²

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 with Ancillary Facilities 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 with ancillary facilities for a period of 3 years. 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 vacant and grassed (**Plans A-2 and A-4**).
- 1.2 The proposed development involves two 1-storey structures with building height of not more than 4.5m and floor area of about 458m² for animal boarding establishment and ancillary office. The operation hours will be from 9:00a.m. to 6:00p.m. daily (including Sundays and public holidays) with 24-hour animal boarding services. About 20 dogs will be accommodated at the Site. According to the applicant, all the dogs will be kept indoor from 7:00p.m. to 9:00a.m. and the structures for animal boarding will be built of bricks and equipped with soundproofing materials and air-conditioning systems. No public announcement system and whistle blowing will be used on the Site. Three parking spaces for private car and one loading/ unloading space for light goods vehicle will be provided at the Site. The Site is accessible from Kong Po Road. The site layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application form and supplementary information (Appendix I)
received on 25.6.2021
- (b) Further Information (FI) received on 5.8.2021 and (Appendix Ia)
9.8.2021 in response to departmental comments
[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, supplementary information and FI at **Appendices I and Ia**, and are briefly summarized as follows:

- (a) The proposed use is on a temporary basis and will not jeopardize the long-term planning intention of the “AGR” zone. The proposed development only involves one-storey structures. It is in harmony with the surrounding rural setting.
- (b) The proposed use caters for the demand for animal boarding services in the area. No dog training session will be carried out from 7:00p.m. to 9:00a.m. to avoid any noise nuisance to the nearby residents. Dog washing and dog functions will be carried out in the enclosed area. Animal odours and noises would be minimal.
- (c) The whole site is unpaved. Waste water produced from the proposed development will be discharged to the proposed underground septic tank system for treatment.

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

The applicant is one of the “current land owners” of the Site and has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting notice at the Site and sending notification letter to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

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

5. **Previous Application**

The Site is not involved in any previous application.

6. Similar Applications

- 6.1 There are 14 similar applications for temporary animal boarding establishment involving 11 sites in the vicinity of the Site within the same “AGR” zone. Except Application No. A/YL-KTN/156, which was rejected by the Committee, the remaining 13 applications were approved with conditions by the Committee. 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/778 for proposed temporary animal boarding establishment for a period of 5 years and filling of land within the same “AGR” zone will be considered at the same meeting.

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

- 7.1 The Site is:

- (a) vacant and grassed; and
- (b) accessible from Kong Po Road.

- 7.2 The surrounding area is rural in character intermixed by some residential structures/dwellings, an animal boarding establishment, a hobby farm and vacant/unused land:

- (a) to its east are unused land and an animal boarding establishment (approved under a valid application No. A/YL-KTN/725). To its northeast is a hobby farm (approved under a valid application No. A/YL-KTN/746);
- (b) to its immediate north, northwest and west are unused land. To its further north are residential structures/dwellings (the nearest about 70m) and vacant/unused land; and
- (c) to its immediate south is Kong Po Road and Kam Tin River. To its further south across Kam Tin River is Kam Tai Road and a residential development known as Seasons Monarch (四季名園) in “Residential (Group C) 2” zone.

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 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 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) Should planning approval be given to the application, the lot owner(s) will need to apply to his office to permit the structure(s) 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 LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) 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) HyD shall not be responsible for the maintenance of any access connecting the Site and Kong Po Road.
- (b) If the proposed run-in/out is agreed by TD, the applicant should provide the run in/out at Kong Po Road to the satisfaction of TD and HyD in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (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 on the Site from 7:00p.m. to 9:00a.m., as proposed by the applicant, during the planning approval period.

- (ii) No public announcement system, whistle blowing, portable loud speaker, or any form of audio amplification system is allowed to be used on the Site at any time during the planning approval period, as proposed by the applicant.
- (c) Moreover, the applicant is also advised (i) that the proposed structures for animal boarding establishment should be enclosed with soundproofing materials with provision of 24-hour mechanical ventilation and air-conditional 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 EPD” including percolation test; and (iv) that 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 two 1-storey structures with building height not more than 4.5m, the proposed development is considered not entirely incompatible with the surrounding landscape setting.
 - (c) Referred to the photos dated 2.7.2021, the Site is vacant with self-seeded vegetation. 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 abandoned. 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 open-field cultivation, 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 the agricultural point of view.
- (b) Nevertheless, he has no specific comment on the planning application from conservation and animal establishment boarding licence aspects. The Kam Tin River is located to the south of the Site. Should the application be approved, the applicant shall be reminded not to disturb/ pollute the Kam Tin River nearby. The Site does not associate with any licence granted by his department, nor has he received any application regarding the address. Under the Public Heath (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 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.
- (c) There is no public sewer connection available in the vicinity, the applicant shall seek views and comments from the Director of Environmental Protection regarding the sewage disposal arrangement of the proposed development.
- (d) Detailed comments on the submitted drainage proposal is at **Appendix IV**.

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, fire service installations (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 FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structures are 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 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, 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 as far as electricity supply safety is concerned.
- (b) In the interest of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing, supervising and conducting any activity near the underground cable or overhead line under the mentioned 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 27.7.2021, the application was published for public inspection. During the three-week statutory publication period, one public comment from an individual (**Appendix III**) was received. She objects to the application mainly on the grounds that 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 with ancillary facilities for a period of 3 years at the “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. 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 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 intermixed by some residential structures/dwellings, an animal boarding establishment, a hobby farm and vacant/unused land. Although there are residential dwellings/structures in the vicinity of the Site (the nearest about 70m to its north) (**Plan A-2**), the applicant stated that all the dogs will be kept indoor from 7:00p.m. to 9:00a.m. and the structures for animal boarding will be built of bricks and equipped with soundproofing materials and air-conditioning systems. In addition, no public announcement system and whistle blowing will be used at the Site. DEP has no objection to the application.
- 11.3 Relevant departments consulted including C for T, DEP, CE/MN of DSD, 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, and prohibiting the 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, CHE/NTW of HyD, CE/MN of DSD and D of FS could be addressed by approval conditions (d) to (k) as recommended in paragraph 12.2 below.
- 11.4 The Site is not involved in any previous application. There are 14 similar applications for temporary animal boarding establishment in the vicinity of the Site 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) were different from the current application as the former would generate adverse environmental and drainage impacts on the surrounding areas. Approval of this application is in line with the Committee’s previous decisions.
- 11.5 One public comment was received during the statutory publication period objecting to the application as stated in paragraph 10 above. In this regard, the departmental comments and 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 comment mentioned in paragraph 10 above, the Planning Department has no objection to the proposed temporary animal boarding establishment with ancillary facilities 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 13.8.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 9:00p.m. and 6:00a.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 on the Site between 7:00p.m. to 9:00a.m., 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 submission of a run-in/out proposal at Kong Po Road within **6** months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by 13.2.2022;
- (f) in relation to (e) above, the implementation of the run-in/out proposal at Kong Po Road within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by 13.5.2022;
- (g) 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;
- (h) in relation to (g) 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;
- (i) in relation to (h) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;

- (j) 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;
- (k) in relation to (j) 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;
- (l) if any of the above planning condition (a), (b), (c), (d) or (i) 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;
- (m) if any of the above planning condition (e), (f), (g), (h), (j) or (k) 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
- (n) 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 Supplementary Information received on 25.6.2021
Appendix Ia	FI received on 5.8.2021 and 9.8.2021
Appendix II	Similar Applications within the Same “AGR” Zone in the vicinity of the Site on the Kam Tin North OZP
Appendix III	Public Comment received during the Statutory Publication Period
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**