

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/805

<u>Applicant</u>	: Mr. TSOI Tak Lee represented by Goldrich Planners and Surveyors Limited
<u>Site</u>	: Lot 76 RP in D.D. 110, Yuen Long, New Territories
<u>Site Area</u>	: About 2,739m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Animal Boarding Establishment with Ancillary Facilities 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 proposed temporary animal boarding establishment with ancillary facilities 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 permission from the Town Planning Board (the Board). Filling of land in “AGR” zone also requires planning permission from the Board. The Site is partly fenced off and currently vacant (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development involves the erection of seven one-storey structures (about 4.5m in height) with a total floor area of about 1,407m² for animal boarding establishment and ancillary office, storeroom and toilet uses. The whole site is proposed to be filled with concrete by not more than 0.1m in depth (from 6.9mPD to 7.0mPD and 7.4mPD to 7.5mPD). Four private car parking spaces and one car parking space for light goods vehicle will be provided. The operation hours (with staff providing activities such as site logistics, check-in and check-out of dogs, etc.) are from 9:00 a.m. to 7:00 p.m. daily, including Sundays and public holidays. Not more than 20 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 inside the enclosed structures equipped with soundproofing materials and mechanical ventilation and air

conditioning after the operation hours to avoid causing noise nuisance to the nearby sensitive receivers. 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 with supplementary information and plans received on 29.11.2021 **(Appendix I)**
- (b) Further Information (FI) received on 19.1.2022 and 20.1.2022 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, supplementary information, plans and FI at **Appendices I and Ia**. They can be summarized as follows:

- (a) The proposed development is temporary in nature and would not jeopardize the long-term planning intention of the “AGR” zone.
- (b) The proposed use can cater for the huge demand for animal boarding services in the area.
- (c) No significant traffic, drainage and environmental impacts on the surroundings are anticipated. The proposed development is considered compatible with the surrounding rural setting.
- (d) No public announcement system and whistle blowing will be used at the Site. All dogs will be staying in the kennels after the operation hours, which will be enclosed with soundproofing materials, equipped with mechanical ventilation and air-conditioning and kept in sanitary conditions. Animal odours and noises would be kept minimal as dog washing and dog functions will be carried out in the enclosed area.
- (e) The paving is required for operational needs such as providing damp proofing ground for erection of structures, manoeuvring of vehicles, transportation of goods and dogs within the Site and easier cleaning and maintenance. The applicant undertakes to remove the paving and reinstate the Site when the planning approval is expired.
- (f) The applicant is the new tenant of the Site. The environmental complaints were received during the occupation of the former tenant and the Site is not involved in environmental complaints since the occupation of the new tenant. The Site is currently vacant and not subject to environmental disturbance.

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 section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) 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 not subject to any planning enforcement action.

5. Previous Application

The Site is not involved in any previous application.

6. Similar Applications

6.1 There are 15 similar applications between April 2017 and August 2021 for temporary animal boarding establishment with / without filling of land, involving 13 sites, in the vicinity of the Site within the same “AGR” zone. All applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) for 3 or 5 years for similar reasons that temporary approvals 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 relevant government departments generally had no adverse comments on the applications. However, planning permissions for two applications (No. A/YL-KTN/556 and 590) were revoked due to non-compliance with approval conditions. Details of these applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

6.2 Apart from the above, an application (No. A/YL-KTN/809) for proposed temporary animal boarding establishment for a period of 5 years with filling of land within the same “AGR” zone in the vicinity of the Site 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) partly fenced off and vacant; and
- (b) accessible to Kong Po Road.

7.2 The surrounding areas are rural in character intermixed with residential structures/ dwellings, open storage/ storage yards, vacant land, gardening, an orchard, agricultural land, woodland and grass land:

- (a) to its north and west are vacant land, ruin, wood land, open storage yards, an orchard, cultivated agricultural land, grass land and a few residential structures/ dwellings (the nearest about 30m to its north);
- (b) to its immediate southwest is a site approved for animal boarding establishment (under Application No. A/YL-KTN/725) with its construction works in progress; and
- (c) to the east across Kong Po Road and a nullah are storage / open storage yards, vacant land and a site approved under Application No. A/YL-KTN/760 for the temporary site office of a gardening development.

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 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 an Old Schedule Agricultural Lot 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 the application be approved, 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 connected to the public road network via a section of a local access road which is not managed by the 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) 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 were two substantiated environmental complaints related to waste aspect concerning the Site received by DEP in the past three years.
- (b) According to the applicant, the animal boarding service will be opened 24 hours daily, including Sunday and public holiday. Not more than 20 dogs will be kept at the Site. 4 private car parking spaces and 1 car parking space for light goods vehicle will be provided at the Site. The kennels are enclosed with soundproofing materials and equipped with mechanical ventilation and air conditioning system. Dog washing, dog function and dog training are carried out in enclosed animal boarding establishments (kennels) and no public announcement system and whistle blowing is allowed at the Site.

- (c) 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 dogs shall be kept inside the kennel between 7:00 p.m. to 9:00 a.m., as proposed by the applicant, during the planning approval period;
 - (ii) the dog washing, dog function and dog training are carried out in enclosed animal boarding establishments, as proposed by the applicant, during the planning approval period; and
 - (iii) no public announcement system, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site as proposed by the applicant.
- ~~(d) The applicant is advised that the proposed structures for animal boarding establishment should be enclosed with soundproofing materials with provision of 24-hours mechanical ventilation and air condition system.~~
- (e) The applicant is also advised: (i) that the structures for animal boarding establishments (including the dog kennels, dog washing, dog function and dog training facilities) should be enclosed with soundproofing materials with the provision of 24-hour mechanical ventilation and air-conditioning system; (ii) to follow the requirements in the latest "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 Environmental Protection Department" including completion of percolation test and certification by Authorized Person; (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) She has no objection to the application from landscape planning perspective.

- (b) Based on the aerial photo of 2021, the Site is located in an area of rural inland plains, landscape character comprising of village houses, vacant lands, scattered tree groups and temporary structures. Similar applications for animal boarding establishment within the same “AGR” zone were approved. Noting that the proposed development involves seven one-storey structures with building height not more than 4.5m, the proposed development is considered not incompatible with the surrounding landscape character.
- (c) According to the site photos taken in December 2021, the Site is vacant, partly paved and covered by wild grass. No existing tree is observed within the Site. Significant adverse landscape impact arising from the proposed development within the Site is not anticipated.
- (d) Noting that the whole site is proposed to be filled by concrete, the applicant should consider reducing the paved area to minimise the impact.

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 source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries etc. As the Site possesses a potential for agricultural rehabilitation, the application is not supported from agricultural perspective.
- (b) Nevertheless, he has no comment from the conservation and animal boarding establishment licence aspects. The Site does not associate with any licences 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. Besides, the dogs kept by the applicant should be properly licensed in accordance with Cap. 421 Rabies Ordinance and the applicant is reminded to observe Cap. 169 Prevention of Cruelty to Animal Ordinance at all times. 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 revised drainage proposal and the implementation and maintenance of the revised drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.
- (c) His detailed comments on the submitted drainage proposal are 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 (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 FSIs 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 the Site, prior approval and consent of the Buildings Authority should be obtained, otherwise they are unauthorized building works (UBW) under the 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.

District Officer's Comments

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

He has not received any comments from locals upon close of consultation and has no particular comment on the application.

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

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

10. Public Comments Received During Statutory Publication Period

On 7.12.2021, the application was published for public inspection. During the three-week statutory publication period, two public comments from Kadoorie Farm and Botanic Garden Corporation and an individual were received (**Appendices III-1 and III-2**). The commenters object to the application mainly on the grounds that approval of the application, which involves filling of land, would cause direct, permanent and irreversible impacts on the “AGR” zone; and there are many applications approved for the same use in the area.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary animal boarding establishment and ancillary facilities for a period of 5 years in the “AGR” zone and filling of land for the whole site by 0.1m in depth. 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 agriculture point of view as the Site possesses potential for agricultural rehabilitation. Nevertheless, in view of the nature of the proposed use, it is considered that approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “AGR” zone. 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, CE/MN of DSD and DEP have no adverse comment from the drainage and environmental perspectives.

11.2 The proposed development is considered not incompatible with the surrounding areas, which are rural in character intermixed with open storage/ storage yards, gardening, an orchard, cultivated agricultural land, residential structures / dwellings, the site approved for temporary animal boarding use, and vegetated

land. Although there are residential dwellings/ structures in the vicinity of the Site (the nearest about 30m to its north) (**Plan A-2**), the applicant advises that no public announcement system and whistle blowing will be used at the Site. All dogs will be kept inside the enclosed structures which are equipped with soundproofing materials, mechanical ventilation and air conditioning after the operation hours. Dog washing, dog function and dog training will be carried out in the enclosed structures. Regarding the environmental complaints received in 2020 on waste aspect of the Site, the applicant advises that he is a new tenant and the Site has been cleared already. DEP has no adverse comment on the application.

- 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 and to address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 12.2 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’.
- 11.4 The Site is not the subject of any previous application. There are 15 similar applications on 13 sites for temporary animal boarding establishment within the same “AGR” zone in the vicinity of the Site approved by the Committee between 2017 and 2021 as stated in paragraph 6.1 above. The approval of the current application is 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 detailed in paragraph 10 above. The commenters raise concern that approval of the application, which involves filling of land, would result in direct and permanent impacts on the “AGR” zone. In this regard, it should be noted that the applicant would be required to reinstate the Site to an amenity area upon expiry of the temporary planning permission should the application be approved. The departmental comments and planning considerations and assessments as stated above are also 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 with ancillary facilities 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 28.1.2027. 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. (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 after the operation hours between 7:00p.m. and 9:00a.m., as proposed by the applicant, during the planning approval period;
- (c) all dog washing, dog function and dog training activities shall be carried out in enclosed structures on the Site, as proposed by the applicant, during the planning approval period;
- (d) no public announcement system, portable loud speaker, 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;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the submission of a revised drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 28.7.2022;
- (g) in relation to (f) above, the implementation of the revised drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 28.10.2022;
- (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 28.7.2022;
- (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 28.10.2022;
- (k) if any of the above planning condition (a), (b), (c), (d), (e) 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 (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 the 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 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 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 and Plans received on 29.11.2021
Appendix Ia	FI received on 19.1.2022 and 20.1.2022
Appendix II	Similar Applications within the Same "AGR" Zone in the vicinity of the Site on the Kam Tin North OZP
Appendices III-1 and III-2	Public Comments received during the Statutory Publication Period
Appendix IV	Advisory Clauses
Drawing A-1	Site 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
JANUARY 2022**