

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/YL-KTN/828

<u>Applicant</u>	:	Mr. LEUNG Tsun Kit Jacky represented by Mr. LEUNG Kin Kwong
<u>Site</u>	:	Lots 4 (Part), 5 S.AP and 5 S.BA in D.D. 110, Tai Kong Po, Kam Tin, Yuen Long
<u>Site Area</u>	:	About 86 m 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>	:	Renewal of Planning Approval for Temporary Animal Boarding Establishment (Cattery) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to use the application site (the Site) for temporary animal boarding establishment (cattery) for a period of 3 years. The Site falls within an area zoned “AGR” zone on the approved Kam Tin North Outline Zoning Plan (OZP). According to the Notes of the OZP, ‘Animal Boarding Establishment’ in the “AGR” zone is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently being used for the applied use with valid planning permission under Application No. A/YL-KTN/652 (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the development involves a two-storey structure with floor area of about 55m² and building height of about 6.5m for cattery and caretaker’s office. No more than 6 cats are accommodated within the Site. The cattery is enclosed with soundproofing materials with mechanical ventilation and air-conditioning. The cats will be kept inside the enclosed cattery and no cats will stay in the cattery after the operation hours between 9:00 a.m. and 7:00 p.m. daily. The applicant advised that no public

announcement system will be used at the Site. The Site is accessible via a local track branching off from Kong Tai Road to the south (**Plan A-2**). A private car parking space and mechanical turn table for manoeuvring of cars are provided within the Site. The site layout plan submitted by the applicant is at **Drawing A-1**.

1.3 The Site is the subject of two previous applications (No. A/YL-KTN/519 and 652) (details at paragraph 6 below).

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

- | | |
|---|----------------------|
| (a) Application form with supplementary information received on 25.2.2022 | (Appendix I) |
| (b) Replacement pages received on 2.3.2022 | (Appendix Ia) |
| (c) Further Information (FI) received on 13.4.2022 (accepted and exempted from publication) | (Appendix Ib) |

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, replacement pages and FI at **Appendices I to Ib** respectively as summarized below:

The applicant intends to continue to use the Site as cattery for a further period of 3 years, which is a renewal of the last approved application No. A/YL-KTN/652. All the approval conditions in the last approved application have been complied with and the development on-site remains unchanged.

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

The applicant is one of the “current land owners” 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 a site notice and notifying the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG-No. 34D) is relevant to this application. Relevant extract of the Guidelines is at **Appendix II**.

5. **Background**

The Site is not subject to any active enforcement action.

6. **Previous Applications**

- 6.1 The Site is the subject of two previous applications (No. A/YL-KTN/519 and 652) both for the same use as the current application. Application No. A/YL-KTN/519 was submitted by a different applicant, whilst application No. A/YL-KTN/652 was submitted by the same applicant as the current application. Both applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) on 24.6.2016 and 17.5.2019 respectively mainly on the grounds that the cattery was small in scale and temporary approval would not jeopardize the long-term planning intention of the “AGR” zone; the development was not incompatible with the surrounding areas; there was in general no adverse departmental comments and/or their technical concerns could be addressed by appropriate approval conditions.
- 6.2 Compared with the last approved application No. A/YL-KTN/652, the applied use and development parameters, including the site layout, boundary and area, of the current application remain unchanged.
- 6.3 Details of the previous applications are summarized at **Appendix III** and the locations are shown on **Plan A-1**.

7. **Similar Applications**

There are 19 similar applications for temporary animal boarding establishment, involving 16 sites, in the vicinity of the Site within the same “AGR” zone. All applications were approved with conditions by the Committee between April 2017 and January 2022 for similar reasons that temporary approvals would not frustrate the long-term planning intention; the developments were not incompatible with the surrounding land uses; previous approvals were granted and the applicants had made efforts to comply with the approval conditions; and relevant government departments generally had no adverse comments. However, planning permissions for 3 applications were revoked due to non-compliance with approval conditions. Details of the similar applications are summarized at **Appendix III** and the locations are shown on **Plan A-1**.

8. **The Site and Its Surrounding Areas (Plans A-1 to A-3 and A-4)**

- 8.1 The Site is:
 - (a) currently used for the applied use covered by valid planning permission under Application No. A/YL-KTN/652; and

- (b) accessible from Kong Tai Road via a local track.

8.2 The surrounding areas have the following characteristics:

- (a) to its north is grass land / graves and to its further north is an area zoned “Conservation Area” where grass land / graves could be found;
- (b) to its east and south are a farm, hobby farms and camping ground, open storage yards, residential dwellings/structures, a ruin and vacant structure. Further south, across a section of nullah, is a wood land / graves; and
- (c) to its west and south-west is an animal boarding establishment (approved under Application No. A/YL-KTN/739) and a hobby farm with planning permission (approved under Applications No. A/YL-KTN/669 and 720). To its further west and southwest are residential structures/dwellings (the nearest about 30m on the west), an open storage yard and a workshop.

9. 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.

10. Comments from Relevant Government Departments

All the departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV and V** respectively.

11. Public Comment Received During Statutory Publication Period (Appendix VI)

The application was published for public inspection. During the statutory public inspection period, one public comment was received. An individual raises objection to the application mainly on the grounds that Hong Kong is notorious for forced breeding of cats and urges the Board members to consider whether the animals are being protected and that relevant regulations are adhered to.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning approval for temporary animal boarding establishment (cattery) for a period of three years within an area zoned “AGR”. The planning intention of the “AGR” zone is 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 development is not entirely in line with the planning intention of the “AGR” zone. Nevertheless, the applied cattery is small in scale with a site area of 86m² and DAFC has no strong view on the renewal application. It is considered that temporary approval of application would not jeopardise the long-term planning intention of the “AGR” zone.

- 12.2 The development comprises a two-storey structure of 6.5m high with floor area of 55m² and is considered not incompatible with the surrounding areas which are rural in character predominated by residential structures/dwellings, hobby farms, animal boarding establishment, open storage yards and workshop. Although there are residential dwellings/ developments in the vicinity of the Site (the nearest about 30m on the west) (**Plan A-2**), the applicant states that no more than 6 cats are accommodated within the Site and the cats will be kept inside the cattery which is enclosed with soundproofing materials with air-conditioning and mechanical ventilation at all time. Also, no cats will stay in the cattery after the operation hours and no public announcement system will be used at the Site. Besides, no environmental complaint concerning the Site was received by DEP in the past three years. DEP has no adverse comment on the application.
- 12.3 The application is in line with the TPB PG-No. 34D in that the applicant has complied with all the approval conditions, the current application is same as the last application in terms of applied use, number of structure, floor area and site layout, the renewal of planning approval period sought is of the same time frame as the previous approval, and there has been no material change in planning circumstances since the granting of the last approval. In this regard, favourable consideration can be given to the current renewal application.
- 12.4 Relevant departments consulted including C for T, DEP, CE/MN of DSD, D of FS and CTP/UD&L of PlanD have no adverse comment on the application. To minimise any potential environmental nuisances and to address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below. Should the application be approved, the applicant will also be advised to follow the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimise the possible environmental impacts on the surrounding areas.
- 12.5 There are 19 similar applications, involving 16 sites, within the same “AGR” zone in the vicinity of the Site in the past 5 years. All applications were approved by the Committee for reasons as stated in paragraph 7 above. Approval of the current applications is in line with the Committee’s previous decisions.

- 12.6 One public comment objecting to the application was received during the statutory publication period as mentioned in paragraph 11 above.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11, the Planning Department has no objection to the application.
- 13.2 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, and be renewed from 25.6.2022 until 24.6.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00p.m. and 9:00a.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 animal boarding establishment on the Site, as proposed by the applicant, at all times during the planning approval period;
- (c) no public announcement system, 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;
- (d) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of records of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 25.9.2022;
- (f) the existing fire services installations and equipment implemented on the Site shall be maintained at all times during the planning approval period;
- (g) if any of the above planning condition (a), (b), (c), (d) or (f) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (h) if the above planning condition (e) 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.

[The above approval conditions are similar to those under the last approved Application No. A/YL-KTN/652, except those on transport and landscape

aspects revised based on the latest comments of C for T and CTP/UD&L of PlanD.]

Advisory Clauses

The recommended advisory clauses are at **Appendix V**.

13.3 There is no strong reason to recommend rejection of the renewal application.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning permission.
- 14.2 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.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

15. Attachments

Appendix I	Application form with supplementary information received on 25.2.2022
Appendix Ia	Replacement pages received on 2.3.2022
Appendix Ib	FI received on 13.4.2022
Appendix II	Relevant extracts of TPB PG-No. 34D
Appendix III	Previous and similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comment
Drawing A-1	Site layout plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4	Site photos