

RNTPC Paper No. A/YL-KTN/845
For Consideration by
the Rural and New Town
Planning Committee
on 12.8.2022

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/845

- Applicant** : Mr. LAW Wing Keung represented by Metro Planning & Development Company Limited
- Site** : Lot 770 RP (Part) in D.D. 107 and Adjoining Government Land, Fung Kat Heung, Yuen Long
- Site Area** : About 223.8 m² (including about 93 m² of government land)
- Land Status** : (i) Block Government Lease (demised for agricultural use) (about 58.4% of the Site)
(ii) Government Land (about 41.6% of the Site)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Animal Boarding Establishment (Cattery) for a Period of 3 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 (cattery) for a period of 3 years and filling of land. The Site is zoned “AGR” on the Kam Tin North OZP and ‘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 within “AGR” zone also requires planning permission from the Board. The Site is partly fenced, paved / grown with weeds and occupied by a temporary domestic structure and a converted container for storage use (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development involves the erection of a single-storey structure (not exceeding 4.5m high) with floor area of not more than 104m² for cattery and toilet uses. Part of the site (about 118m², about 52.7%) will be filled with concrete for about 0.5m in depth (from +12.4 mPD to +12.9 mPD) for site formation of structure. Not more than 12 cats will be kept within the Site between 9:00 a.m. and 7:00 p.m. daily. The cats will be

kept inside the enclosed structure equipped with soundproofing materials, air conditioning and mechanical ventilation. No cats will be kept at the Site after the operation hours. The maximum number of visitors is 3 per day and 2 staff will stay at the Site during the operation hours to take care of the cats. The applicant states that no public announcement system will be used at the Site. Two parking spaces for private car will be provided within the Site. The Site is accessible from San Tam Road via Mei Fung Road (**Plan A-2**). The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary information (**Appendix I**) received on 24.6.2022 and 29.6.2022
 - (b) Further information (FI) received on 30.7.2022 (**Appendix Ia**)

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 in **Appendices I and Ia**. They can be summarized as follows:

- (a) The proposed cattery is temporary in nature and will not jeopardise the long-term planning intention of the “AGR” zone. The proposed development is compatible with the surrounding environment and similar applications are found within the same “AGR” zone in the vicinity.
- (b) The filling of land of about 0.5m in depth is necessary as the southern part of the Site is about 0.5m higher than the northern part and the extent of land filling has been minimized for site formation of structure.
- (c) The proposed development will not induce significant adverse traffic, environmental and drainage impacts on the surrounding area.
- (d) The cattery will be maintained in a sanitary condition. It will contain means for the removal and disposal of animal and foods waste, etc. to minimize infestation, contamination, odour and disease. All excreta and other waste matter will be removed not less than once daily. A regular programme for the control and destruction of insects, ectoparasites, avian and mammalian pests at the place at which the cats are accommodated will be established and maintained.
- (e) The applicant will follow the relevant mitigation measures and requirements as shown in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”.

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 Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection. For the government land portion within the Site, TPB PG-No.31A is not applicable.

4. **Background**

The Site is currently not the subject of any planning enforcement action.

5. **Previous Application**

The Site is not involved in any previous application.

6. **Similar Applications**

6.1 There are 23 similar applications, involving 21 sites, for temporary animal boarding establishment (ten of which with filling of land) within the same “AGR” zone in the vicinity of the Site in the past 5 years. All the applications, except for application No. A/YL-KTN/759, were approved with conditions by the Committee between March 2018 and February 2022 mainly on the grounds that approval on a temporary basis would not frustrate the long-term planning intention; the developments were not incompatible with the surrounding land uses; relevant government departments consulted in general had no objection to or no adverse comments; and their technical concerns could be addressed by approval conditions. Nevertheless, the planning permissions for nine of them (Applications No. A/YL-KTN/588, 616, 617, 639, 642, 645, 713, 716 and 730) were revoked owing to non-compliance with the approval conditions.

6.2 Application No. A/YL-KTN/759 was rejected by the Committee in May 2021 for the reason that the site was fragmented in that the boundary had enclosed existing structures which were used for the applied use without planning permission but outside the application site and approving the application would result in piecemeal development and was undesirable from land-use planning and planning control points of view. Nevertheless, the site for the same use was later approved by the Committee in September 2021 when all the existing structures previously left out in the fragmented application were included in one application site under application No. A/YL-KTN/781.

6.3 Details of these applications are summarized in **Appendix II** and the locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) is partly fenced, paved and grown with weeds and occupied by a temporary domestic structure and a converted container for storage use; and
- (b) accessible from San Tam Road via Mei Fung Road.

7.2 The surrounding areas have the following characteristics:

- (a) to its north and northwest is an area zoned “Industrial (Group D)” with residential structures/dwellings and a warehouse. To its further northwest is a monastery named Miu Kok Monastery (妙覺園);
- (b) to its northeast and east, across Mei Fung Road, are storage/open storage yards, residential structures/dwellings, a site with valid planning permission (No. A/YL-KTN/763) for temporary animal boarding establishment and vacant land.
- (c) to its southeast and south are active agricultural land, residential structures / dwellings, parking of vehicles, a restaurant, a caravan holiday camp site covered by valid planning permission under Application No. A/YL-KTN/817 and vacant land which is the site approved for temporary animal boarding establishment under Application No. A/YL-KTN/651; and
- (d) to its southwest are some residential structures/dwellings (about 10m to the southwest), a hobby farm, vacant land and fallow agricultural land.

8. Planning Intention

- 8.1 The planning intention of the “AGR” zone 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.
- 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

All government 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 III** and **IV** respectively.

10. Public Comment Received During Statutory Publication Period

The application was published for public inspection. During the statutory public inspection period, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary animal boarding establishment (cattery) for a period of 3 years at the Site zoned “AGR” (**Plan A-1**) and filling of land at part of the Site (about 118m² or 52.7%) by 0.5m in depth for site formation of structure. The planning intention of the “AGR” zone is to retain and safeguard good 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. Whilst the proposed development is not in line with the planning intention of the “AGR” zone, DAFC has no comment on the application from the agriculture development perspective. It is considered that approval of the application on a temporary basis for 3 years would not frustrate 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. An approval condition requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.
- 11.2 The proposed use is considered not incompatible with the surrounding areas which are rural in character intermixed by storage/open storage yards, warehouse, residential dwellings/structures, fallow/active agricultural land, caravan holiday camp, hobby farm and vacant land. Although there are residential dwellings/ structures in the vicinity of the Site (the nearest about 10m to its southwest) (**Plan A-2**), the applicant states that all the cats will be kept inside the enclosed structure equipped with soundproofing materials, air conditioning and mechanical ventilation. No cats will be kept at the Site after the operation hours and no public announcement system will be used at the Site. There was no environmental complaint concerning the Site in the past 3 years. DEP has no adverse comment on the application.
- 11.3 Other relevant departments consulted including C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS, have no adverse comment on the application. To minimize the possible environmental nuisances generated by the proposed development and address the technical requirements of

concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. 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' issued by EPD.

- 11.4 The Site is not involved in any previous application. There are 22 similar applications approved for temporary animal boarding establishment (nine of which involves filling of land) within the "AGR" zone in the vicinity of the Site in the past five years. The circumstances of the only rejected application (No. A/YL-KTN/759) are different as stated in paragraph 6.2 above. Approval of the current application is in line with the Committee's previous decisions on similar applications.
- 11.5 No public comment was received during the statutory publication period.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department has no objection to the application.
- 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 12.8.2025. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) all cats shall be kept inside the enclosed animal boarding establishment structure on the Site and no cats shall be kept at the Site after the operation hours between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, during the planning approval period;
- (c) 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;
- (d) the implementation of the accepted drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 12.2.2023;
- (e) the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the implementation of the accepted 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 12.2.2023;

- (g) if any of the above planning condition (a), (b), (c) or (e) 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;
- (h) if any of the above planning condition (d) or (f) 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
- (i) 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 in **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. This zone 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 24.6.2022 and 29.6.2022
Appendix Ia	FI received on 30.7.2022
Appendix II	Similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Drawing A-1	Site layout plan
Drawing A-2	Land filling 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 2022**