

RNTPC Paper No. A/YL-KTN/851
For Consideration by
the Rural and New Town
Planning Committee
on 9.9.2022

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/851

- Applicant** : Creation Prospect Construction Engineering Limited represented by R-riches Property Consultants Limited
- Site** : Lots 946 S.K, 946 S.L, 1119 S.A, 1119 S.B and 1120 (Part) in D.D. 107, Fung Kat Heung, Yuen Long
- Site Area** : About 373m²
- 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 proposed temporary animal boarding establishment for a period of 5 years and filling of land. The Site is zoned “AGR” on the Kam Tin North OZP (**Plan A-1a**) 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 and partly deposited with some construction materials / machinery and vacant converted containers (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development involves the erection of a two-storey structure (not exceeding 7m high) with floor area of not more than 192m² for animal boarding establishment, site office and washroom uses. The whole site will be filled with concrete for about 0.2m in depth (from +13.2mPD to +13.4mPD) for site formation of structure, parking of vehicles and circulation purposes. Not more than 20 dogs will be kept within the Site and the dogs will be kept inside the enclosed structure equipped with soundproofing materials, air conditioning and mechanical ventilation. The applicant states that the operation hours will be between 9:00 a.m. and 6:00

p.m. daily (except overnight animal boarding). 4 staff will stay at the Site during the operation hours whilst 1 staff will stay overnight to support the operation of the proposed development. No public announcement system, whistle blowing, portable loud speaker or any form of audio amplification system will be used. Two parking spaces for private car will be provided within the Site. The Site is accessible from Mei Fung Road via a local access (**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 The Site is the subject of three previous applications (No. A/YL-KTN/588, 642 and 789) (details at paragraph 5 below).
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary information (**Appendix I**) received on 21.7.2022
 - (b) Further information (FI) received on 6.9.2022 (**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 development is temporary in nature and will not jeopardise the long-term planning intention of the “AGR” zone.
- (b) The proposed development will not induce significant adverse traffic, environmental and drainage impacts on the surrounding area.
- (c) Land filling is required to provide stronger ground reinforcement to stabilise the existing soil ground and prevent erosion from surface run-off. The extent of land filling has been kept to the minimum for meeting the operation need of the proposed use.
- (d) The applicant proposed septic tank for sewage treatment. Licenced contractors will be employed by the applicant to collect and dispose of sewage regularly. Garbage or other form of waste will be taken away by staff to the nearest refuse collection point regularly by private car.
- (e) The applicant will strictly 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” issued by the Environmental Protection Department, and relevant Professional Persons Environmental Consultative Committee Practice Notes for sewage treatment at the Site.
- (f) Part of the Site overlaps with the adjoining site approved for temporary animal

boarding establishment (Application No. A/YL-KTN/789). In this regard, the applicant submitted FI (**Appendix Ia**) stating that the applicant of Application No. A/YL-KTN/789 undertakes to stop using its site to make way for the current application after obtaining planning permission.

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.

4. **Background**

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

5. **Previous Applications**

5.1 Part of the Site is involved in three previous applications (No. A/YL-KTN/588, 642 and 789) for temporary animal boarding establishment (the former two without filling of land) which were submitted by different applicants. All applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) between March 2018 and December 2021 mainly on the grounds that temporary approval would not jeopardize the long-term planning intention of the “AGR” zone; the developments were not incompatible with the surrounding land uses; relevant departments consulted generally had no adverse comments on the applications and/or their technical concerns could be addressed through approval conditions. However, the planning permissions for applications No. A/YL-KTN/588 and 642 were revoked respectively in September 2018 and July 2021 due to non-compliance with the approval conditions in relation to the submission of landscape, drainage and fire service installations (FSIs) proposals (the former application), and the implementation of FSIs proposal (the latter application). The planning permission for the last application No. A/YL-KTN/789, with small portion overlapping with the Site of the current application, is valid until 24.12.2026.

5.2 Details of these applications are at **Appendix II** and their locations are shown on **Plan A-1b**.

6. **Similar Applications**

6.1 There are 22 similar applications, involving 19 sites, for temporary animal boarding establishment (eleven 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 June 2018 and February 2022 on similar grounds as stated in paragraph 5.1 above. Nevertheless, the planning permissions for seven of them (Applications No. A/YL-KTN/ 616, 617, 639, 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 the 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-1a**.

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

7.1 The Site is:

- (a) partly fenced, paved and partly deposited with some construction materials / machinery and converted containers; and
- (b) accessible from Mei Fung Road via a local access.

7.2 The surrounding areas have the following characteristics:

- (a) to its south and southeast are a storage yard, animal boarding establishments (some of which have valid planning permissions), a plant nursery, ruins, cultivated agricultural land and a site with works in progress (approved for temporary animal boarding establishment);
- (b) to its west and north are an organic farm, open storage / storage yards and residential structures / dwellings (at a distance of about 20m in the north). To its further west, northwest and north are open storage/ storage yards, residential structures/dwellings, parking of vehicles and grass land; and
- (c) to its east and northeast are open storage/storage yards, residential structures/dwellings and vacant 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 (Appendix V)

The application was published for public inspection. During the statutory public inspection period, a public comment from an individual was received providing views that the latest situation of the adjoining application No. A/YL-KTN/789 should be taken into account.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary animal boarding establishment for a period of 5 years at the Site zoned “AGR” (**Plan A-1a**) and filling of land at the whole site by 0.2m in depth for site formation of structure, parking of vehicles and vehicular circulation. 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 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, animal boarding establishments (some of which with valid planning

permission), residential dwellings/structures, parking of vehicles, cultivated agricultural land, organic farm, plant nursery, grass land and vacant land. Although there are residential dwellings/ structures in the vicinity of the Site (the nearest about 20m to its north) (**Plan A-2**), the applicant states that all the dogs will be kept inside the enclosed structure equipped with soundproofing materials, air conditioning and mechanical ventilation. No public announcement system will be used at the Site. Besides, 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 the DEP, and the relevant Practice Note for Professional Person PN 5/93 on "Drainage Plans subject to Comment by the Environmental Protection Department" including percolation test if septic tank and soakaway system will be used at the Site.
- 11.4 Part of the Site is involved in three previous applications (No. A/YL-KTN/588, 642 and 789) approved by the Committee submitted by different applicants for temporary animal boarding establishment use between 2018 and 2021 for reasons as stated in paragraph 5.1 above. Besides, there are 21 similar applications approved for temporary animal boarding establishment (ten of which involve 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 the previous and similar applications.
- 11.5 A public comment providing comments on the application was received during the statutory publication period. In this regard, the departmental comments and planning assessments and considerations 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 in paragraph 10, 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 5 years until 9.9.2027. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 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 dogs shall be kept inside the enclosed animal boarding establishment structure on the Site, 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, as proposed by the applicant, is allowed to be used on the Site during the planning approval period;
- (d) 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 9.3.2023;
- (e) in relation to (d) 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 9.6.2023;
- (f) the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) 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 9.3.2023;
- (h) in relation to (g) 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 9.6.2023;
- (i) if any of the above planning condition (a), (b), (c) 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;
- (j) if any of the above planning condition (d), (e), (g) or (h) 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
- (k) 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 21.7.2022
Appendix Ia	FI received on 6.9.2022
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comment
Drawing A-1	Site layout plan
Drawing A-2	Land filling plan
Plan A-1a	Location plan with similar applications

Plan A-1b	Previous application plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
SEPTEMBER 2022**