

RNTPC Paper No. A/YL-KTN/854A
For Consideration by the
Rural and New Town
Planning Committee
on 13.1.2023

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/854

Applicant : Mr. TANG Wai Ip

Site : Lot 1093 in D.D. 107, Kam Tin North, Yuen Long, New Territories

Site Area : About 526.1m²

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
at the time of submission

Draft Kam Tin North OZP No. S/YL-KTN/10 currently in force
[The zoning and development restrictions for the Site remain unchanged
on the current draft OZP No. S/YL-KTN/10]

Zoning : “Agriculture” (“AGR”)

Application : 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 for a period of 5 years and filling of land. The Site is zoned “AGR” on the Kam Tin North OZP (**Plan A-1**). 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). Filling of land within “AGR” zone also requires planning permission from the Board. The Site is paved, fenced off and vacant (**Plans A-2 to A-4**).
- 1.2 The Site is involved in a previous application (No. A/YL-KTN/716) submitted by the same applicant for the same use, which was approved with conditions by the

Rural and New Town Planning Committee (the Committee) in November 2020. However, the planning permission was revoked in May 2022 due to non-compliance with approval conditions related to submission and implementation of the fire service installations (FSIs) proposal and drainage proposal. Details of the previous application are provided in paragraph 5 below.

- 1.3 According to the applicant, the proposed development involves four 1 to 2-storey structures with building height ranging from not more than 5m to 6m and a total floor area of about 254.5m² for animal boarding establishment, site office and storage uses. The Site has been filled with concrete for about 0.3m in depth (from about +9.3mPD to about +9.6mPD) for site formation of structures and circulation. Three staff members will be stationed at the Site between 8:00 a.m. and 6:00 p.m. to support the operation of the animal boarding establishment.
- 1.4 The applicant states that the operation hours of the animal boarding establishment are between 8:00 a.m. and 6:00 p.m. daily except overnight animal boarding. It would accommodate not more than 20 dogs at the Site. A maximum of four dogs, with dog masks, are allowed outdoor at the same time during the operation hours. All dogs would be kept inside the enclosed structures built with soundproofing materials and 24-hour air conditioning and mechanical ventilation after the operation hours. No public announcement system, whistle blowing or any form of audio amplification system would be used at the Site. No parking space and loading/unloading space is provided at the Site. The Site is accessible via a local track branching off from Castle Peak Road - Tam Mi (**Plan A-2**). The site layout plan and paved area ratio plan submitted by the applicant are at **Drawings A-1 and A-2**.
- 1.5 Compared with the last approved application No. A/YL-KTN/716 which was submitted by the same applicant, the current application is essentially the same in terms of the applied use, site area / boundary, layout and major development parameters except the change of operation hours from 9:00 a.m. to 6:00 p.m. daily to from 8:00 a.m. to 6:00 p.m. daily. Besides, the approval period sought is changed from 3 years to 5 years under the current application.
- 1.6 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary information received on 4.8.2022 (**Appendix I**)
 - (b) Further Information (FI) received on 24.11.2022 (**Appendix Ia**)
 - (c) FI received on 6.1.2023 and 10.1.2023 (**Appendix Ib**)
- 1.7 On 23.9.2022, the Committee agreed to defer making a decision on the application for two months as requested by the applicant.

2. **Justifications from the Applicant**

The justifications put forth by the applicants in support of the application are detailed in the application form, supplementary information and FIs at **Appendices I to Ib**. They can be summarised as follows:

- (a) The proposed use 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.
- (b) The Site has been developed under the previous application (No. A/YL-KTN/716) which was approved by the Committee in November 2020. Besides, there are similar applications approved by the Committee in the vicinity of the Site within the same “AGR” zone.
- (c) The filling of land of about 0.3m in depth is necessary for site formation and circulation purposes. The Site will be reinstated upon expiry of the planning approval.
- (d) The proposed development will not induce adverse traffic, environmental and drainage impacts to the surrounding areas.
- (e) The previous application (No. A/YL-KTN/716) was revoked as the application form for extension of time for compliance with planning conditions could not be delivered to the Board’s Secretariat timely. The applicant commits to comply with all the approval conditions should the application be approved.

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

The applicant is the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

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

5. **Previous Application**

- 5.1 The Site is the subject of a previous application (No. A/YL-KTN/716) submitted by the same applicant for the same temporary animal boarding establishment (with land filling), which was approved with conditions by the Committee on 20.11.2020

for a period of 3 years for the reasons that temporary approval would not frustrate the long-term planning intention; the development was not incompatible with the surrounding land uses; and relevant departments consulted in general had no adverse comment on the application or their technical concerns could be addressed by relevant approval conditions. However, due to non-compliance of approval conditions on the submission and implementation of drainage proposal and FSIs proposal, the planning permission was revoked on 20.5.2020. In the current application, drainage and FSIs proposals are submitted in support of the application.

- 5.2 Compared with the last approved application No. A/YL-KTN/716, the current application is essentially the same in terms of the applied use, site area / boundary, layout and major development parameters except the change of operation hours from 9:00 a.m. to 6:00 p.m. daily to from 8:00 a.m. to 6:00 p.m. daily. Besides, the approval period sought is changed from 3 years to 5 years under the current application.
- 5.3 Details of the previous application are summarised in **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are 34 similar applications (including renewal of the temporary planning approval granted by the Board), involving 29 sites, for temporary animal boarding establishment (17 of which with filling of land) within the same “AGR” zone in the vicinity of the Site in the past 5 years. Except Application No. A/YL-KTN/759, all applications were approved with conditions by the Committee on similar considerations as stated in paragraph 5.1 above. Nevertheless, the planning permissions for 10 of them were revoked subsequently due 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 summarised in **Appendix II** and the locations are shown on **Plan A-1**.

- 6.4 Other than the similar applications as stated in paragraphs 6.1 and 6.2 above, Applications No. A/YL-KTN/869, 870 and 871, with their sites located in the vicinity of the Site, for temporary animal boarding establishment with ancillary facilities for a period of 5 years and filling of land will be considered in this same meeting (**Plan A-1**).

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

7.1 The Site is:

- (a) paved, fenced off and vacant; and
- (b) accessible from Castle Peak Road - Tam Mi via a local access.

7.2 The surrounding areas have the following characteristics:

- (a) to its north are active farmland, ruin, animal boarding establishments (one of which is covered by a valid planning permission under Application No. A/YL-KTN/781), an organic farm, plant nurseries, open storage/storage yards, residential structures/ dwellings and sites with works in progress;
- (b) to its east and south are open storage/storage yards, a plant nursery, a hobby farm, an orchard and grass land; and
- (c) to its west are residential dwellings/structures (the nearest one at about 10m to the west), hobby farms and active farmland.

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

All the 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 Comments Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory publication period, 11 comments were received from Kadoorie Farm and Botanical Garden Corporation and individuals. They object to the application mainly on the grounds that the applied use is not in line with the planning intention of the “AGR” zone; the Site should be retained for farming; approval of the application will set an undesirable precedent for similar applications; and the applied use will induce adverse environmental, sewerage and traffic impacts to the surrounding areas.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary animal boarding establishment for a period of 5 years and filling of land by about 0.3m in depth for site formation of structure and circulation at the Site zoned “AGR” (**Plan A-1**). 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, the Director of Agriculture Fisheries and Conservation 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 to the adjacent areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD) and Director of Environmental Protection (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 land uses which are rural in character intermixed with active farmland, plant nurseries, orchard, hobby farms, open storage/ storage yards and residential structures/dwellings. Although there are residential dwellings/structures in the vicinity of the Site (nearest on the immediate west) (**Plan A-2**), the applicant states that all the dogs will be kept inside the enclosed structures built with soundproofing materials and equipped with mechanical ventilation and air conditioning. A maximum of four dogs with dog masks will be allowed for outdoor activities at the same time during the operation hours and 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 Relevant departments consulted, including the Commissioner for Transport, DEP, Chief Town Planner/Urban Design and Landscape of Planning Department, CE/MN of DSD and Director of Fire Services (D of FS), have no adverse comment on the application. To minimise the possible environmental nuisances generated by the 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, 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 The Site is the subject of a previous application (No. A/YL-KTN/716) approved for the same use in November 2020, which was revoked due to non-compliance with approval conditions related to the submission and implementation of FSIs and drainage proposals. In the current application, drainage and FSIs proposals are submitted in support of the application. CE/MN of DSD and D of FS have no adverse comment on the application. Should the Committee decide to approve the application, the applicant will be advised that should he fail to comply with the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 11.5 There are 33 similar applications approved for temporary animal boarding establishment (16 of which involve filling of land) within the same “AGR” zone in the vicinity of the Site. The circumstances of the only rejected similar application (No. A/YL-KTN/759) are different from the current applications as stated in paragraph 6.2 above. Approval of the current application is in line with the Committee’s previous decisions.
- 11.6 11 public comments were 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 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 comments mentioned in paragraph 10 above, 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

13.1.2028. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 8:00 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 structures on the Site from 6:00 p.m. to 8:00 a.m. and up to four dogs with dog masks are allowed for outdoor activities at the same time during the operation hours, 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 at any time during the planning approval period;
- (d) 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 13.7.2023;
- (e) in relation to (d) 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 13.10.2023;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of a revised 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 13.7.2023;
- (h) in relation to (g) above, the implementation of the revised 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 13.10.2023;
- (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 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. 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 received on 4.8.2022
Appendix Ia	FI received on 24.11.2022
Appendix Ib	FI received on 6.1.2023 and 10.1.2023
Appendix II	Previous and similar application(s)
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawings A-1 to A-2	Site layout plan and paved area ratio plan
Plan A-1	Location plan
Plan A-2	Site plan

Plan A-3
Plan A-4

Aerial photo
Site photos

PLANNING DEPARTMENT
JANUARY 2023