

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/856

<u>Applicant</u>	:	Mr. TANG Tsz Ki
<u>Site</u>	:	Lots 1356 (Part), 1359 (Part), 1360 (Part) and 1371 (Part) in D.D. 109, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	:	About 3,098.6 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>	:	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-1**) 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 grown with weeds and partly used for open storage of construction materials and machineries with no valid planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development, which is for a dog kennel accommodating not more than 60 dogs, involves the erection of 10 single-storey structures (not exceeding 4.5m high) with total floor area of about 812m² for animal boarding establishment, dog function room, site office, storage and open shed uses. Six staff members will be stationed at the Site to take care of the dogs. The whole site will be filled with concrete for not more than 0.3m in depth (from +7.0 mPD to +7.3 mPD) for site formation of structures, parking and circulation purposes. The operation hours are from 8:00 a.m. to 6:00 p.m. daily (except overnight animal boarding). Not more than 12 dogs with masks will be allowed outdoor at the same time during the

operation hours and all animals will be kept indoor after the operation hours. The structures for animal boarding establishment are enclosed with sound proofing materials, and provided with 24-hour air conditioning and mechanical ventilation. No public announcement system will be used at the Site. Three parking spaces for private car and two loading/unloading spaces for light goods vehicle will be provided within the Site. The Site is accessible via a local track from Kong Tai 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 8.8.2022 and 16.8.2022
- (b) Further information (FI) received on 15.9.2022 (**Appendix Ia**)
- (c) FI received on 19.9.2022 (**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 and FI in **Appendices I** and **Ib**. They can be summarized 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 and similar applications are approved by the Rural and New Town Planning Committee (the Committee) within the same “AGR” zone in the vicinity.
- (b) The filling of land of not more than 0.3m in depth is for site formation, parking and vehicle manoeuvring purposes. The Site will be reinstated upon expiry of the planning approval.
- (c) The applicant undertakes to comply with all the approval conditions to be stipulated by the Committee should the application be approved. Besides, the implementation of relevant approval conditions can bring overall environmental enhancement to the area.
- (d) The proposed development would not induce adverse traffic, environmental and drainage impacts to the surrounding areas. Regarding the access to the Site, the applicant states that he has obtained consent from the relevant land owners and undertakes to address future disputes with the owners, if any, should the application be approved.
- (e) The applicant will implement good practices under the relevant Professional Persons Environmental Consultative Committee Practice Notes (ProPECC PN) when designing on-site drainage system, i.e. the use of septic tank for sewage treatment at the Site.

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

According to the Chief Town Planner / Central Enforcement and Prosecution, storage use and workshop use were observed at the Site during their recent site inspection in August 2022. Verbal warning was given to the operator on-site. The case will be under monitoring according to the established planning enforcement procedures.

5. Previous Application

The Site is not involved in any previous application.

6. Similar Applications

6.1 There are 22 similar applications, involving 17 sites, for temporary animal boarding establishment (six 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, including renewal of the temporary planning approval granted by the Board, were approved with conditions by the Committee between April 2017 and July 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; the applications were in line with the relevant Town Planning Board Guidelines on applications for renewal of planning approval for temporary use or development; relevant 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 eight of them (Applications No. A/YL-KTN/556, 590, 672, 723, 725, 740, 756 and 778) were revoked owing to non-compliance with the approval conditions.

6.2 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) partly grown with weeds and partly used for open storage of construction materials and machineries with no valid planning permission; and
- (b) accessible via a local track from Kong Tai Road.

7.2 The surrounding areas have the following characteristics:

- (a) to its north, northwest and northeast are residential dwellings/ structures (the nearest about 50m to its north), parking of vehicles and grassland. To its further north is the “Village Type Development” zone of Cheung Kong Tsuen (長江村) where scattered residential dwellings / structures and an open storage yard could be found;
- (b) to its east are open storage yards (which are the sites approved for temporary animal boarding establishment under Applications No. A/YL-KTN/779 and 798) and grassland;
- (c) to its west are plant nurseries, grassland and vacant land; and
- (d) to its south are grassland, and to its further south across Kong Po Road, Kam Tin River and Kam Tai Road are the residential development of Seasons Monarch (四季名園) within the “R(C)2” zone.

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 Comments Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory public inspection period, three public comments from the Kadoorie Farm and Botanic Garden Corporation and two individuals were received. All of them object to the application mainly on the grounds that the application is not in line with the planning

intention of the “AGR” zone; the potential cumulative impact of approving such applications should be considered; vehicular access to the Site will need to gain through the adjoining private lots; the extent of land filling included under the application is not justifiable; and the proposed development will result in adverse drainage impacts on the surrounding area.

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-1**) and filling of land at the whole site by not more than 0.3m in depth for site formation of structure, parking and circulation purposes. 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 entirely in line with the planning intention of the “AGR” zone, DAFC has no comment on the application from the agriculture development perspective. Given the temporary nature of the application, 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 upon expiry of the planning approval is recommended.
- 11.2 The proposed use is considered not incompatible with the surrounding areas which are predominantly rural in character intermixed by grassland, plant nurseries, residential dwellings/structures, open storage yards and parking of vehicles and vacant land. Although there are residential dwellings/ structures in the vicinity of the Site (the nearest about 50m 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 after the operation hours and no public announcement system will be used at the Site. A maximum of 12 dogs with dog masks will be allowed for outdoor activities at the same time. 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, 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 There are 22 similar applications, involving 17 sites, approved for temporary animal boarding establishment (six of which with filling of land) within the “AGR” zone in the vicinity of the Site in the past five years. Some of them are located in close proximity to the Site (**Plan A-1**). Approval of the current application is in line with the Committee’s previous decisions on similar applications.
- 11.5 Three public comments objecting to the application were 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 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 23.9.2027. The following approval conditions and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 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 animal boarding establishment structure on the Site, except no more than 12 dogs are allowed for outdoor activities from 8 a.m. to 6 p.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 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 23.3.2023;
- (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 23.6.2023;

- (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 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 23.3.2023;
- (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 23.6.2023;
- (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 8.8.2022 and 16.8.2022
Appendix Ia	FI received on 15.9.2022
Appendix Ib	FI received on 19.9.2022
Appendix II	Similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
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
SEPTEMBER 2022**