

RNTPC Paper No. A/YL-KTN/861
For Consideration by
the Rural and New Town
Planning Committee
on 11.11.2022

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/861

Applicant : Mr. TANG Lok San

Site : Lot 1025 RP in D.D. 109, Kam Tin North, Yuen Long

Site Area : About 579.7m²

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 : 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 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 paved, fenced off and currently used for the applied use without planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is involved in a previous application (No. A/YL-KTN/756) 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 April 2021. However, the planning permission was revoked in July 2022 due to non-compliance with approval conditions related to implementation of the fire service installations (FSIs) proposal and drainage proposal.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 development involves three 1 to 2-storey structures (ranging from about 3.5m to 6.5m high) with total floor area of about 177.5m² for animal boarding establishment, site office and storage uses. The Site has been filled with concrete for about 0.5m in depth (from +11.4

mPD to +11.9 mPD) for site formation of structures, parking of vehicle and circulation. The operation hours are from 9:00 a.m. to 6:00 p.m. daily (except overnight animal boarding). The applicant states that the animal boarding establishment can accommodate no more than 30 dogs at the Site. No more than 10 dogs with dog masks will be allowed outdoor at the same time during the operation hours. 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, whistle blowing or any form of audio amplification system will be used at the Site. Two parking spaces for private car and one loading/unloading space for light goods vehicle are provided within the Site. The Site is accessible via a local track branching off 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**.

- 1.4 Compared with the last approved application No. A/YL-KTN/756 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 reduction of car parking spaces for private cars from six to two (-66%).
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary information (**Appendix I**) received on 22.9.2022 and 27.9.2022
 - (b) Further information (FI) received on 2.11.2022 and (**Appendix Ia**) 3.11.2022

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 applied use is temporary in nature and will not jeopardise the long-term planning intention of the “AGR” zone. The development is compatible with the surrounding environment.
- (b) The Site has been developed under the previous application (No. A/YL-KTN/756) which was approved by the Committee in April 2019. 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 0.5m in depth is necessary for site formation, vehicle parking and circulation purposes. The Site will be reinstated upon expiry of the planning approval.
- (d) The development will not induce adverse traffic, environmental and drainage

impacts to the surrounding areas. The animal boarding establishment will be maintained in a sanitary condition. Food waste will be collected after every meal and disposed to the refuse collection point.

- (e) The previous application (No. A/YL-KTN/756) 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 has committed to comply with all the approval conditions should the application be approved.

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 active planning enforcement action.

5. Previous Application

- 5.1 The Site is the subject of a previous application (No. A/YL-KTN/756) submitted by the same applicant for the same temporary animal boarding establishment (with land filling), which was approved with conditions by the Committee on 16.4.2021 for a period of 3 years for the reasons that temporary approval would not frustrate the long-term planning intention of the "AGR" zone; the development was not incompatible with the surrounding land uses; and relevant departments in general had no adverse comment on the application. However, due to non-compliance of approval conditions on the implementation of drainage proposal and FSIs proposal, the planning permission was revoked on 16.7.2022. In the current application, drainage and FSIs proposals and records of existing drainage facilities implemented on-site are submitted in support of the current application.
- 5.2 Compared with the last approved application No. A/YL-KTN/756 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 reduction of car parking spaces for private cars from six to two.
- 5.3 Details of the previous application are summarized in **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are 18 similar applications (including renewal of the temporary planning approval granted by the Board), involving 13 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 were approved with conditions by the Committee between January 2018 and September 2022 on similar grounds as stated in paragraph 5.1 above. Nevertheless, the planning permissions for six of them (Applications No. A/YL-KTN/590, 672, 723, 725, 740 and 778) were revoked subsequently 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) paved, fenced off and used for the applied use without planning permission; and
 - (b) accessible from Kong Tai Road via local access.
- 7.2 The surrounding areas have the following characteristics:
- (a) to its immediate south are a residential dwelling/structure and active farmland. To its further south and southeast are a hobby farm, a residential structure/dwelling, vacant land (the site has been approved for temporary hobby farm under Application No. A/YL-KTN/812), and parking of vehicles;
 - (b) to its immediate west is Kam Tin River. To its further northwest, west and southwest are active / fallow farmland, open storage yards, parking of vehicles and residential structures/dwellings; and
 - (c) to its immediate north and east is active farmland, and its further east and northeast are residential structures/dwellings, vacant chicken shed, open storage yards 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, one public comment was received from an individual objecting to the application mainly on the grounds that the previous application was revoked due to non-compliance of approval conditions.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary animal boarding establishment for a period of 5 years at the Site zoned “AGR” (**Plan A-1**) and filling of land at the Site by about 0.5m in depth for site formation of structure, parking of vehicle and 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 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 to 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 applied use is considered not incompatible with the surrounding land uses which are rural in character predominated by residential structures/dwellings, active / fallow farmland, hobby farm, open storage/storage yards, parking of vehicles, vacant land / and vegetated land. Although there are residential structures/dwellings in the vicinity of the Site (the nearest to the immediate south) (**Plan A-2**), the applicant states that all dogs will be kept inside the enclosed animal boarding establishment 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. Besides, a maximum of 10

dogs with dog masks will be allowed for outdoor activities at the same time. 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 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 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/756) approved for the same use in April 2021, which was revoked due to non-compliance with approval conditions related to the implementation of FSIs and drainage proposals. In the current application, drainage and FSI proposals and records of existing drainage facilities implemented on-site 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 eighteen similar applications approved for temporary animal boarding establishment (six of which involve filling of land) within the same "AGR" zone in the vicinity of the Site. Approval of the current application is in line with the Committee's previous decisions.
- 11.6 One public comment objecting to the application was received. 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 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 11.11.2027. 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 animals shall be kept inside the enclosed animal boarding establishment structure on the Site, except no more than 10 dogs are allowed for outdoor activities at the same time between 9:00 a.m. to 6:00 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) maintenance of 2.5m high solid metal wall along the site boundary, as proposed by the applicant, during the planning approval period;
- (e) 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 11.5.2023;
- (f) the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) 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 11.5.2023;
- (h) 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;
- (i) if any of the above planning condition (e) or (g) 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
- (j) 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 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 22.9.2022 and 27.9.2022
Appendix Ia	FI received on 2.11.2022 and 3.11.2022
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-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo

Plan A-4

Site photos

**PLANNING DEPARTMENT
NOVEMBER 2022**