

RNTPC Paper No. A/YL-KTN/869 to 871
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

APPLICATIONS NO. A/YL-KTN/869 to 871

<u>Applicants</u>	:	Mr. TANG Pak Kiu Mr. TANG Wai Ip Mr. TANG Tsz Ki	(Application No. A/YL-KTN/869) (Application No. A/YL-KTN/870) (Application No. A/YL-KTN/871)
<u>Sites</u>	:	Lots 1509 (Part), 1511 (Part) and 1517 (Part) Lots 1509 (Part) and 1517 (Part) Lots 1518, 1520 RP, 1522 RP and 1556 RP all in D.D. 107, Kam Tin North, Yuen Long, New Territories	(Application No. A/YL-KTN/869) (Application No. A/YL-KTN/870) (Application No. A/YL-KTN/871)
<u>Site Areas</u>	:	About 4,622.7m ² About 3,512.3m ² About 3,615.8m ²	(Application No. A/YL-KTN/869) (Application No. A/YL-KTN/870) (Application No. A/YL-KTN/871)
<u>Leases</u>	:	Block Government Lease (demised for agricultural use)	
<u>Plan</u>	:	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 Sites remain unchanged on the current draft OZP No. S/YL-KTN/10]	
<u>Zoning</u>	:	“Agriculture” (“AGR”)	
<u>Applications</u>	:	Proposed Temporary Animal Boarding Establishment with Ancillary Facilities for a Period of 5 Years and Filling of Land	

1. The Proposals

- 1.1 The applicants seek planning permissions to use each of the application sites (the Sites), located adjacent to each other, for proposed temporary animal boarding

establishment for a period of 5 years and filling of land (**Plan A-1**). According to the Notes of the OZP, ‘Animal Boarding Establishment’ is a Column 2 use under the “AGR” zone which requires planning permission from the Town Planning Board (the Board). Filling of land within “AGR” zone also requires permission from the Board. The Sites are vacant, partly paved and partly fenced (**Plans A-2 to A-4c**).

1.2 Major development parameters of the three applications are summarised as follows:

	A/YL-KTN/869	A/YL-KTN/870	A/YL-KTN/871
Site Area (m ²)(about)	4,622.7m ²	3,512.3m ²	3,615.8m ²
No of Structures	17	15	13
No. of Storey	1	1	1
Building Height (m)	Not more than 3.5m	Not more than 3.5m	Not more than 3.5m
Total Floor Area (m ²)	About 1,439m ²	About 1,263m ²	About 972m ²
Use of the Structures	<ul style="list-style-type: none"> • animal boarding establishment • site office • ancillary storage 	<ul style="list-style-type: none"> • animal boarding establishment • site office • ancillary storage • ancillary function room • staff lounge 	<ul style="list-style-type: none"> • animal boarding establishment, • site office • ancillary storage • ancillary function room
No. of Staff	2 to 3 staff	2 to 3 staff	1 to 2 staff
Operation Hours (with stationed staff)	8:00 a.m. to 6:00 p.m. daily	8:00 a.m. to 6:00 p.m. daily	8:00 a.m. to 6:00 p.m. daily
No. of Dogs to be Accommodated	Not more than 60	Not more than 55	Not more than 40
Maximum No. of Dogs to be allowed for Outdoor Activities at the Same Time	6 (with dog masks)	6 (with dog masks)	6 (with dog masks)
No. of Private Car Parking Spaces	5	4	4
No. of Loading/ Unloading Space for Light Goods Vehicles	2	2	3
Extent of Land Filling	Whole site to be filled with concrete by not more than 0.3m in depth / from +4.6mPD to +4.9mPD	Whole site to be filled with concrete by not more than 0.3m in depth / from +4.5mPD to +4.8mPD	Whole site to be filled with concrete by not more than 0.3m in depth / from +4.4mPD to +4.7mPD

- 1.3 The applicants state that 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. A maximum of 6 dogs with dog masks will be allowed for outdoor activities at the same time at each of the Sites during the operation hours. No public announcement system, whistle blowing or any form of audio amplification system would be used at each of the Sites. The whole sites are proposed to be filled with concrete by not more than 0.3m in depth for site formation of structures, parking of vehicles and circulation space. The Sites are accessible from Shui Mei Road via a local access. The site layout plans and paved ratio area plans submitted by each of the applicants are at **Drawings A-1 to A-6**.
- 1.4 In support of the applications, the applicants have submitted the following documents:
- (a) Application form (No. A/YL-KTN/869) with (Appendix Ia) supplementary information received on 18.11.2022
 - (b) Application form (No. A/YL-KTN/870) with (Appendix Ib) supplementary information received on 18.11.2022
 - (c) Application form (No. A/YL-KTN/871) with (Appendix Ic) supplementary information received on 28.11.2022
 - (d) Further Information (FI) for Application No. A/YL-KTN/869 received on 6.1.2023 (Appendix Id)
 - (e) FI for Application No. A/YL-KTN/870 received on 6.1.2023 (Appendix Ie)
 - (f) FI for Application No. A/YL-KTN/871 received on 6.1.2023 (Appendix If)

2. **Justifications from the Applicants**

The justifications put forth by the applicants in support of their applications are detailed in the application forms, supplementary information and FIs at **Appendices Ia to If**. They can be summarised as follows:

- (a) The proposed developments are on temporary basis which will not jeopardise the long-term planning intention of the “AGR” zone. Similar applications for animal boarding establishment have been approved by the Rural and New Town Planning Committee (the Committee) in the vicinity of the Sites.
- (b) The proposed developments are not incompatible with the surrounding environment.
- (c) The land filling areas within the Sites are for site formation of structures and circulation space for meeting the operational need of the proposed animal boarding establishments. The proposed filling of land will provide stronger reinforcement to stabilise the existing soiled ground and prevent erosion from surface run-off.

The applicants will reinstate the Sites to farmland upon expiry of the planning permissions.

- (d) The proposed development will not induce adverse traffic, landscape and visual impacts to the surrounding areas.

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

The applicants are not the “current land owner” of their respective lots but have complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/ Notification” Requirements under Sections 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notices and sending notices to the Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Sites are subject to planning enforcement action against unauthorised development involving filling of land (No.: E/YL-KTN/617) (**Plan A-2**). Reinstatement Notice was issued on 6.10.2022 requiring reinstatement of the concerned land. If the notice is not complied with, prosecution action may be taken.

5. Previous Application

There is no previous application at each of the Sites.

6. Similar Applications

- 6.1 There are 35 similar applications (including renewal of the temporary planning approvals granted by the Board), involving 30 sites, for temporary animal boarding establishment (18 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 of the applications were approved with conditions by the Committee on similar considerations that temporary approval would not frustrate the long-term planning intention; the developments were not incompatible with the surrounding land uses; relevant departments consulted in general had no adverse comment on the application and/or their technical concerns could be addressed by relevant approval conditions. Nevertheless, the planning permissions for 11 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, Application No. A/YL-KTN/854, with its site located in the vicinity of the Sites, for proposed temporary animal boarding establishment with ancillary facilities for a period of 5 years and filling of land will also be considered in this same meeting (**Plan A-1**).

7. The Sites and Their Surrounding Areas (Plans A-1 to A-4c)

- 7.1 The Sites are:
- (a) vacant, partly paved and partly fenced, with a few converted containers deposited at the Site of Application No. A/YL-KTN/869; and
 - (b) accessible from Shui Mei Road via a local access.
- 7.2 The surrounding areas have the following characteristics:
- (a) to the north and east are grassland, plant nurseries, vacant land and an open storage yard; and
 - (b) to the immediate south are grassland. To the further south across Shui Mei Road and a nullah are ponds and a hobby farm (**Plans A-2 and A-3**).

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

The applications were published for public inspection. During the statutory publication period, three public comments (for Application No. A/YL-KTN/869) from Kadoorie Farm & Botanic Garden Corporation, the Hong Kong Bird Watching Society and an individual (**Appendix Va**), three public comments (for Application No. A/YL-KTN/870) from Kadoorie Farm & Botanic Garden Corporation, the Hong Kong Bird Watching Society and an individual (**Appendix Vb**), and one public comment (for Application No. A/YL-KTN/871) from Kadoorie Farm & Botanic Garden Corporation (**Appendix Vc**) were received. The commenters object to the applications mainly on the grounds that the proposed developments are not in line with the planning intention of the “AGR” zone; the scale of the proposed developments and the extent of land filling are excessive; filling of the Sites by concrete would affect the future use of the Sites for farming purpose; and the setting of undesirable precedents for similar applications in the area.

11. Planning Considerations and Assessments

- 11.1 The applications are for proposed temporary animal boarding establishments for a period of 5 years and filling of land by not more than 0.3m in depth for site formation of structure, parking of vehicles and circulation at each of the Sites 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 developments at each of the Sites are not in line with the planning intention of the “AGR” zone, the Director of Agriculture Fisheries and Conservation has no comment on the applications from the agriculture development perspective. It is considered that approval of the applications 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 the Director of Environmental Protection (DEP) have no adverse comment from the drainage and environmental perspectives. An approval condition requiring the reinstatement of each of the Sites to an amenity area is recommended should the Committee decide to approve the applications.

- 11.2 The proposed use at each of the Sites is considered not incompatible with the surrounding area which is rural in character intermixed with plant nurseries, hobby farm, open storage yard, grassland and vacant land (**Plans A-2 and A-3**). In order not to affect the tranquility of the surrounding rural environment, the applicants state that all the animals will be kept inside the enclosed structures built with soundproofing materials and equipped with mechanical ventilation and air conditioning outside the operation hours. A maximum of 6 dogs with dog masks will be allowed for outdoor activities at the same time at each of the Sites during the operation hours. No public announcement system, whistle blowing, portable loud speaker, or any form of audio amplification system will be used at the Sites. DEP has no objection to the applications.
- 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 have no adverse comment on the applications. To minimise any potential environmental nuisances and to address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Should the applications be approved, the applicants 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 DEP in order to minimise the possible environmental impacts on the surrounding areas.
- 11.4 There are 34 similar applications approved for temporary animal boarding establishment (17 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 applications is in line with the Committee's previous decisions.
- 11.5 Regarding the public comments received during the statutory publication period objecting to the applications as stated in paragraph 10 above, 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 applications.

- 12.2 Should the Committee decide to approve the applications, it is suggested that the permissions 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 6 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 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 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 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 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 applications, 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 applications and decide whether to grant or refuse to grant permissions.
- 13.2 Should the Committee decide to approve the applications, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permissions, and the period of which the permissions should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

14. Attachments

Appendix Ia	Application form (No. A/YL-KTN/869) with supplementary information received on 18.11.2022
Appendix Ib	Application form (No. A/YL-KTN/870) with supplementary information received on 18.11.2022
Appendix Ic	Application form (No. A/YL-KTN/871) with supplementary information received on 28.11.2022
Appendix Id	FI for Application No. A/YL-KTN/869 received on 6.1.2023
Appendix Ie	FI for Application No. A/YL-KTN/870 received on 6.1.2023

Appendix If	FI for Application No. A/YL-KTN/871 received on 6.1.2023
Appendix II	Similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix Va	Public comments for Application No. A/YL-KTN/869
Appendix Vb	Public comments for Application No. A/YL-KTN/870
Appendix Vc	Public comment for Application No. A/YL-KTN/871
Drawings A-1 & A-2	Site layout plan and paved area ratio plan for Application No. A/YL-KTN/869
Drawings A-3 & A-4	Site layout plan and paved area ratio plan for Application No. A/YL-KTN/870
Drawings A-5 & A-6	Site layout plan and paved area ratio plan for Application No. A/YL-KTN/871
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a to A-4c	Site photos

**PLANNING DEPARTMENT
JANUARY 2023**