

RNTPC Paper No. A/YL-KTN/881
For Consideration by
the Rural and New Town
Planning Committee
on 17.2.2023

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/881

- Applicant** : Mr. CHENG Siu Chung represented by R-riches Property Consultants Limited
- Site** : Lot 1218 RP (Part) in D.D. 109, Tai Kong Po, Kam Tin, Yuen Long
- Site Area** : About 1,371m²
- 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** : 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 temporary animal boarding establishment with ancillary facilities 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 paved, fenced off and currently used for the applied use without planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the development involves four 1-storey structures (ranging from 3m to 4m high) with total floor area of about 352m² for rain shelter, animal boarding establishment and fire service installations uses. Part of the Site has been filled with concrete (about 938m² or 68%) for not more than 0.2m in depth (from about +8.4 mPD to +8.6 mPD) for site formation of structures, car parking and loading/unloading, and outdoor animal activities

area. 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 not more than 60 dogs at the Site. 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, portable loud speaker or any form of audio amplification system will be used at the Site. Three 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**.

1.3 The Site is the subject of two previous applications (No. A/YL-KTN/590 and 638) submitted by the same applicant for the same use (details at paragraph 5 below).

1.4 A comparison of the major development parameters of the application and the last approved application No. A/YL-KTN/638 is set out as follows:

Parameters	Previous Application No. A/YL-KTN/638 (a)	Current Application (b)	Difference (b) – (a)
Applied Use	Proposed temporary animal boarding establishment for a period of 5 years	Temporary animal boarding establishment with ancillary facilities for a period of 5 years and filling of land	Addition of 'filling of land' to the applied use
Site Area	1,386.3m ²	1,371m ²	-15.3m ² (-1%)
Total Floor Area	409m ²	352m ²	-57m ² (-14%)
No. of Structures	3 (for animal boarding establishment and fire services water tank and panel uses)	4 (for rain shelter, animal boarding establishment and fire service installations uses)	+1 (+33%)
Building Height	3.5m, one storey	3.5m to 4m, one storey	+0.5m (+17%)
No. of Car Parking Space	3	3	--
No. of Loading / Unloading Space	1	1	--
Max. No. of Dogs to be Kept	30	60	+30 (+100%)
Operation Hours (except overnight animal boarding)	10:00a.m. to 5:00p.m. daily (including public holidays)	9:00a.m. to 6:00p.m. daily (including public holidays)	Slight change

1.5 In support of the application, the applicant has submitted the following documents:

(a) Application form and supplementary statement (**Appendix I**)

received on 28.12.2022

(b) Further information (FI) received on 9.2.2023

(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 statement 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 approved by the Rural and New Town Planning Committee (the Committee) for the same use under the previously approved applications (No. A/YL-KTN/590 and 638) in March 2018 and February 2019. Besides, there are similar applications approved by the Committee in the vicinity of the Site within the same “AGR” zone.
- (c) The extent of filling of land is necessary for meeting the operational need of the temporary animal boarding establishment. 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. Sewage will be collected and disposed of regularly by licensed collectors.
- (e) The previous application (No. A/YL-KTN/638) was revoked due to non-compliance with approval condition in relation to the implementation of fire service installations (FSIs) proposal. In this regard, the applicant explains that he is awaiting approval of the Water Supplies Department (WSD) for connection of secondary water supplies to the town mains, which has resulted in his failure to comply with the approval condition in a timely manner. The applicant has submitted relevant proposals in the current application and 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 Applications

- 5.1 The Site is the subject of two previous applications (No. A/YL-KTN/590 and 638) submitted by the same applicant for the same temporary animal boarding establishment use, which were approved with conditions by the Committee in March 2018 and February 2019 for the reasons that temporary approval would not frustrate the long-term planning intention of “AGR” zone; the developments were 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, both planning permissions were revoked subsequently due to non-compliance of approval condition(s). For Application No. A/YL-KTN/638, the planning permission was revoked in January 2023 owing to non-compliance with the approval conditions related to the implementation of FSIs proposal. In the current application, drainage and FSIs proposals and records of existing drainage facilities implemented on-site are submitted for consideration of relevant departments.
- 5.2 Compared with the last approved application No. A/YL-KTN/638 which was submitted by the same applicant, the current application is essentially the same in terms of the applied use, site boundary and major development parameters as stated in paragraph 1.4 above.
- 5.3 Details of the previous applications are summarized in **Appendix II** and the locations are shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are 11 similar applications, involving nine sites, for temporary animal boarding establishment (eight 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 October 2020 and November 2022 on similar grounds as stated in paragraph 5.1 above. Nevertheless, the planning permissions for five of them (Applications No. A/YL-KTN/723, 725, 740, 756 and 778) were revoked subsequently owing to non-compliance with the approval conditions.
- 6.2 Details of the 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 paved, fenced off and used for the applied use; and
- (b) accessible from Kong Tai Road via local access.

7.2 The surrounding areas have the following characteristics:

- (a) to its north are some residential dwellings/structures (the nearest one at about 10m to the north). Further north are grassland, a plant nursery, storage yards and vacant land;
- (b) to its east across Kong Tai Road is a warehouse. Further east across a nullah are residential dwellings/structures, a storage yard, grassland, a plant nursery and vacant land within the “Village Type Development” (“V”) zone;
- (c) to its south and southeast are residential dwellings/structures, a storage yard and a warehouse. Further south are active farmland, residential structures/ dwellings and grassland; and
- (d) to its west and southwest are active farmland and residential structures/dwellings.

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 and the extent of land filling is considered excessive.

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 part of the Site (about 68%) by not more than 0.2m in depth for site formation of structures, car parking and outdoor animal activities. 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 agricultural 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 the Director of Environmental Protection (DEP) have no objection 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, open storage/storage yards, warehouses, plant nurseries, active farmland and vacant land. Although there are residential structures/dwellings in the vicinity of the Site (nearest one on the immediate north) (**Plan A-2**), the applicant states that all dogs will be kept inside the enclosed animal boarding establishment structures, 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, there was no environmental complaint concerning the Site in the past 3 years. DEP has no objection on the application.
- 11.3 Other relevant departments consulted, including Commissioner for Transport, Chief Town Planner/Urban Design and Landscape of Planning Department, CE/MN of DSD and Director of Fire Services, have no objection to or 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 as septic tank and soakaway system will be used at the Site.
- 11.4 The Site is the subject of two previous applications (No. A/YL-KTN/590 and 638) approved for the same use (without filling of land) in March 2018

and February 2019. The planning permission for the last approved Application No. A/YL-KTN/638 was revoked due to non-compliance with approval condition related to the implementation of FSIs proposal. In the current application, drainage and FSIs proposals and records of existing drainage facilities implemented under the previous application are submitted in support of the application with no adverse comment received from CE/MN of DSD and D of FS. 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 11 similar applications approved for temporary animal boarding establishment (eight 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 17.2.2028. 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 structures on the Site from 6:00 p.m. to 9 a.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 implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;

- (e) the submission of the record of the existing drainage facilities on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 17.5.2023;
- (f) 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 17.8.2023;
- (g) if any of the above planning condition (a), (b), (c) or (d) 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;
- (h) if any of the above planning condition (e) or (f) 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
- (i) 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 and supplementary statement received on 28.12.2022
Appendix Ia	FI received on 9.2.2023
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
FEBRUARY 2023**