

RNTPC Paper No. A/YL-KTN/889
For Consideration by
the Rural and New Town
Planning Committee
on 17.3.2023

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/889

Applicant : Mr. TANG Wing Yat Tommy

Site : Lots 1356 (Part), 1359 (Part) and 1360 (Part) in D.D. 109, Kam Tin, Yuen Long, New Territories

Site Area : About 2,141.5m²

Lease : Block Government Lease (demised for agricultural use)

Plan : Draft Kam Tin North Outline Zoning Plan (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 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**). ‘Animal Boarding Establishment’ is a Column 2 use in the Notes of the OZP for “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 vacant and partly covered with weeds (**Plans A-2 to A-4b**).
- 1.2 According to the applicant, the proposed development involves nine one-storey structures (with building height not exceeding 3.5m) and a total floor area of about 619.5m² for animal boarding establishment and ancillary storage and site office uses. The whole site will be filled with soil and concrete for about 0.3m in depth (from about +6.9 mPD to +7.2 mPD) for site formation of structures, construction of drainage channel, and parking of vehicle and circulation. The operation hours will be from 8:00 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 50 dogs at the Site. Three to four staff members will be stationed at the Site during the operation hours to support the operation of animal boarding establishment. No more than 12 dogs with dog masks will be allowed outdoor at the same

time during the operation hours, while all animals will be kept within the enclosed structures built with sound proofing materials, and equipped 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. Two parking spaces for private car and two loading/unloading spaces for light goods vehicle will be provided at the Site. The Site is accessible via a local track branching off from Kong Po Road and 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 and supplementary information (**Appendix I**) received on 26.1.2023 and 31.1.2023
- (b) Further information (FI) received on 13.3.2023 (**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 information and FI in **Appendices I** and **Ia**. 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.
- (b) The proposed development can help satisfy the demand for animal boarding services in the area. There are similar applications approved by the Rural and New Town Planning Committee (the Committee) in the vicinity of the Site within the same “AGR” zone.
- (c) Land filling is necessary for meeting the operational need of the proposed animal boarding establishment. 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. The animal boarding establishment will be maintained in a sanitary condition.

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 subject to planning enforcement action (No. E/YL-KTN/622) against an unauthorized development (UD) involving storage use and workshop use (**Plan A-2**). Enforcement Notice was issued on 1.11.2022 to the concerned parties requiring discontinuation of the UD. The Site was found vacant during site inspection in January and February 2023. The case will be monitored according to the established procedures.

5. **Previous Application**

There is no previous application at the Site.

6. **Similar Applications**

- 6.1 There are 13 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 five years. All the applications were approved with conditions by the Committee between March 2018 and November 2022 mainly for the reasons that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “AGR” zone; the developments were not incompatible with the surrounding land uses; and concerned departments consulted in general had no objection to the applications or their technical concerns could be addressed by relevant approval conditions. Nevertheless, the planning permissions for seven of them 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-4b)**

- 7.1 The Site is:
- (a) vacant and partly covered with weeds; and
 - (b) accessible from Kong Po Road and Kong Tai Road via a local access.
- 7.2 The surrounding areas have the following characteristics:
- (a) to its north, northwest and northeast are residential dwellings/ structures (the nearest at about 10m to its north), an open storage yard, grassland and vacant land within the “Village Type Development” zone of Cheung Kong Tsuen (長江村);

- (b) to its east and southeast are open storage yards (which are the sites approved for temporary animal boarding establishment under Applications No. A/YL-KTN/779 and 798), a hobby farm (with valid planning permission under Application No. A/YL-KTN/746) and grassland;
- (c) to its south are an open storage yard (with valid planning permission under Application No. A/YL-KTN/856), vacant land and grassland. To its further south are Kong Po Road and a section of nullah; and
- (d) to its west are a plant nursery and grassland.

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

The application was published for public inspection. During the statutory public inspection period, three public comments were received. The Kadoorie Farm & Botanic Garden Corporation and two individuals object to / raise concern on the application mainly on the grounds that the extent of land filling is considered excessive and doubt whether the Site can be reinstated to its original status after the planning approval; the proposed use will result in adverse drainage impacts; animal boarding establishments are over provided in the territory; and the vehicular access leading to the Site will cross private lots not owned by the applicant.

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 about 0.3m in depth for site formation of structures, construction of drainage channel, and 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 proposed 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 proposed development is considered not incompatible with the surrounding land uses which are rural in character predominated by residential structures/dwellings, open storage/storage yards, plant nursery, hobby farm, grassland and vacant land. Although there are residential structures/dwellings in the vicinity of the Site (nearest one at about 10m to its north) (**Plan A-2**), the applicant states that all dogs will be kept inside the enclosed structures built with soundproofing materials and equipped with air conditioning and mechanical ventilation after the operation hours, and no public announcement system will be used at the Site. A maximum of twelve dogs with dog masks will be allowed for outdoor activities at the same time during the operation hours.
- 11.3 Other relevant departments consulted, including the Commissioner for Transport, 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 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 the Environmental Protection Department (EPD) to minimize any possible environmental nuisance, and the relevant Practice Note for Professional Person PN 5/93 on “Drainage Plans subject to Comment by the EPD” including percolation test if septic tank and soakaway system will be used at the Site.
- 11.4 There are 13 similar applications for temporary animal boarding establishment (eight of which involve filling of land) within the same “AGR” zone in the vicinity of the Site approved by the Committee between March 2018 and November 2022 for reasons as detailed in paragraph 6 above. Approval of the current application is in line with the Committee’s previous decisions on similar applications.

- 11.5 Three public comments objecting / raising concern on the application were 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 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 17.3.2028. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 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 structures on the Site from 6:00 p.m. to 8:00 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 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 17.9.2023;
- (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 17.12.2023;
- (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 17.9.2023;
- (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 17.12.2023;

- (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. It 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 information received on
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26.1.2023 and 31.1.2023

Appendix Ia	FI received on 13.3.2023
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
Plans A-4a and 4b	Site photos

**PLANNING DEPARTMENT
MARCH 2023**