

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/908

<u>Applicant</u>	:	Mr. TANG Tsz Ki
<u>Site</u>	:	Lots 1468 (Part), 1469 (Part) and 1471 S.A in D.D. 107, Kam Tin North, Yuen Long, New Territories
<u>Site Area</u>	:	About 5,191m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Draft Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/10
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	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**). According to the Notes of the OZP, ‘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 fenced off, partly paved and vacant, partly covered with weeds and deposited with construction materials (**Plans A-2 to A-4**).
- 1.2 The Site is the subject of a previous application (No. A/YL-KTN/713) for the same use as detailed in paragraph 5 below.
- 1.3 According to the applicant, the proposed development involves 12 single-storey structures (not more than 4.5m in height) with a total floor area of about 1,051.5m² for animal boarding establishment, storage, office and open shed uses. The applicant also applies for filling of land at a depth of 0.3m (from +5.7mPD to +6mPD) for part of the Site (about 4,169.5m² or 80.3%), of which an area of about 1,182m² has already been paved, for site formation of structures, construction of drainage channel, and parking and circulation of vehicles.

- 1.4 The applicant states that the operation hours will be from 8:00 a.m. to 6:00 p.m. daily (except overnight animal boarding). The animal boarding establishment would accommodate not more than 70 dogs at the Site. 3 to 4 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. All dogs will be kept within the enclosed structures built with sound proofing materials, and equipped with 24-hour air conditioning and mechanical ventilation systems after operation hours. No public announcement system, whistle blowing, portable loud speaker or any form of audio amplification system will be used at the Site. 5 parking spaces for private car and 2 loading/unloading spaces for light goods vehicle will be provided at the Site. The Site is accessible via a local track branching off from Shui Mei Road (**Plan A-2**). The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1** and **A-2**.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form and supplementary information (**Appendix I**) received on 11.4.2023 and 19.4.2023
 - (b) Further Information (FI) received on 1.6.2023* (**Appendix Ia**)
 - (c) FI received on 5.6.2023* (**Appendix Ib**)
- *exempted from publication and recounting requirements*

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 FIs in **Appendices I** to **Ib**. They can be summarised 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 not incompatible with the surrounding environment.
- (b) The proposed development can cater for the demand for animal boarding services in the area. There are similar applications approved 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 and is kept to minimal. The Site will be reinstated upon expiry of the planning approval.
- (d) The proposed development will not induce adverse traffic, environmental and drainage impacts on the surrounding areas. No chemical cleaning product will be used outdoors to protect the soil and downstream ecology.

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 Part of the Site is the subject of a previous application (No. A/YL-KTN/713) for the same use (without filling of land) with different development parameters and layout submitted by a different applicant, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) in November 2020 for the reasons that temporary approval would not frustrate the long-term planning intention of “AGR” zone; the development was 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. The planning permission was revoked in May 2022 owing to non-compliance with the approval conditions related to the submission and implementation of drainage and fire service installations (FSIs) proposals.

5.2 Details of the previous application are summarised in **Appendix II** and the location is shown on **Plan A-1**.

6. **Similar Applications**

6.1 There are 40 similar applications, involving 34 sites, for temporary animal boarding establishment (24 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 the applications were approved with conditions by the Committee between March 2018 and May 2023 mainly on similar considerations as stated in paragraph 5.1. 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 excluded from 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 under application No. A/YL-KTN/759 were included in the application site under application No. A/YL-KTN/781.

- 6.3 Details of the 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/909 for the same use as the current application will be considered in the same meeting (**Plan A-1**).

7. The Site and Its Surrounding Areas (Plans A-1 to A-4)

- 7.1 The Site is:
 - (a) divided into eastern and western portions by a local track;
 - (b) fenced off, partly paved and vacant, partly covered with weeds and partly deposited with construction materials; and
 - (c) accessible from Shui Mei Road via a local track.
- 7.2 The surrounding areas have the following characteristics:
 - (a) to its north and east are active farmland, ponds, residential dwellings/structures, a religious institution, a hobby farm (with valid planning permission under application No. A/YL-KTN/782) and vacant land; and
 - (b) to its south and west are residential dwellings/structures (the nearest adjacent to the northwestern boundary of the Site), storage of vehicles, a hobby farm, a plant nursery, a pond, grassland and vacant 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 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 Comment Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory public inspection period, one public comment from an individual was received objecting to the application mainly on the grounds that the previous application was revoked due to non-compliance with the approval conditions; the actual use may not be in line with the applied use; and animal boarding establishments are oversupplied in the territory.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary animal boarding establishment with ancillary facilities for a period of 5 years at the Site zoned “AGR” (**Plan A-1**) and filling of land at part of the Site (about 4,169.5m² or 80.3%) by 0.3m in depth (of which about 1,182m² or 22.8% has been filled) for site formation of structures, construction of drainage channel, and parking and circulation of vehicles. 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, the Director of Agriculture, Fisheries and Conservation 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 on 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 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, ponds, hobby farms, grassland and vacant land. Although there are residential structures/dwellings in the vicinity of the Site (the nearest adjacent to the northwestern boundary of the Site) (**Plan A-2**), the applicant states that all dogs will be kept inside the enclosed structures built with sound proofing materials and equipped with air conditioning and mechanical ventilation systems 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 during the operation hours. Besides, there was no environmental complaint concerning the Site in the past 3 years. DEP has no adverse comment on the application.

- 11.3 Other relevant departments consulted, including the Commissioner for Transport, the Chief Town Planner/Urban Design and Landscape of Planning Department, CE/MN of DSD and the Director of Fire Services (D of FS), have no objection to or no adverse comment on the application. To minimise 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 minimise any possible environmental nuisance, and the relevant Practice Note for Professional Person PN 5/93 on Drainage Plans subject to Comment by EPD including percolation test if septic tank and soakaway system will be used at the Site.
- 11.4 The Site is the subject of one approved previous application (No. A/YL-KTN/713) for the same use (without filling of land) which was submitted by a different applicant as stated in paragraph 5.1 above. The planning permission was revoked due to non-compliance with the approval conditions related to submission and implementation of drainage and FSIs proposals. For the current application, CE/MN of DSD and D of FS have no adverse comment.
- 11.5 There are 39 approved similar applications for temporary animal boarding establishment (23 of which involve filling of land) within the same "AGR" zone in the vicinity of the Site in the past 5 years. The circumstances of the only rejected similar application (No. A/YL-KTN/759) which involved fragmented site as stated in paragraph 6.2 above are different from the current application. Approval of the current application is in line with the Committee's previous decisions.
- 11.6 Regarding the public comment objecting to the application, the applicant states that the proposed development is to cater for the demand for animal boarding services in the area, and 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 9.6.2028. 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 9.12.2023;
- (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 9.3.2024;
- (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 9.12.2023;
- (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 9.3.2024;
- (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 11.4.2023 and 19.4.2023
Appendix Ia	FI received on 1.6.2023
Appendix Ib	FI received on 5.6.2023
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
Plans A-4	Site photos

**PLANNING DEPARTMENT
JUNE 2023**