

RNTPC Paper No. A/YL-KTN/909  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 9.6.2023

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**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTN/909**

**Applicant** : Mr. LAI Kwok Man represented by Goldrich Planners and Surveyors Ltd.

**Site** : Lot 38 in D.D. 110, Yuen Long, New Territories

**Site Area** : About 2,227m<sup>2</sup>

**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**). 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 paved with concrete and currently used for storage of vehicles without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is the subject of a previous application (No. A/YL-KTN/672) for the same use as detailed in paragraph 5 below.
- 1.3 According to the applicant, the proposed development involves 5 structures of not more than two storeys (not more than 8m in height) with a total floor area of about 1,033m<sup>2</sup> for animal boarding establishment, ancillary office, storeroom and reception uses. The applicant also applies for filling of land at a depth of 0.1m (from +13.0mPD to +13.1mPD) for the whole site for site formation of structures, parking of vehicles and activity area for dogs.

- 1.4 The applicant states that the operation hours will be from 9:00 a.m. to 7:00 p.m. daily (except overnight animal boarding). The animal boarding establishment would accommodate about 20 dogs at the Site. 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. 3 parking spaces for private car and 1 loading/unloading space for light goods vehicle will be provided at the Site. The Site is accessible via a local track branching off from Kong Po 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 12.4.2023 and 19.4.2023
  - (b) Further information (FI) received on 16.5.2023\* (**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 compatible 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) The proposed development will not induce adverse traffic, environmental and drainage impacts on 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**

Part of the Site is currently subject to planning enforcement actions (No. E/YL-KTN/636, 637 and 638) against unauthorised developments (UDs) involving storage use (**Plan A-2**). Enforcement Notices were issued on 12.4.2023 to the concerned parties requiring discontinuation of the UD.

#### 5. **Previous Application**

- 5.1 The Site is the subject of a previous application (No. A/YL-KTN/672) for the same use (for cattery only and 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 December 2019 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; relevant departments consulted in general had no objection to or no adverse comment on the application or their technical concerns could be addressed by relevant approval conditions; and there were similar approved applications within the same “AGR” zone. The planning permission was revoked in January 2022 owing to non-compliance with the approval conditions related to the submission and/or implementation of drainage and fire service installations (FSI) 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 30 similar applications, involving 21 sites, for temporary animal boarding establishment (12 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 March 2023 mainly on similar considerations as stated in paragraph 5.1. The planning permissions for 9 of them were revoked subsequently due to non-compliance with the approval conditions. Details of the applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.
- 6.2 Other than the similar applications as stated in paragraph 6.1 above, application No. A/YL-KTN/908 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) currently used for storage of vehicles without valid planning permission; and
- (b) accessible from Kong Po Road via a local track.

**7.2 The surrounding areas have the following characteristics:**

- (a) to its south and southwest are active farmland, residential dwellings/structures (the nearest at about 30m to its southwest), grassland and vacant land;
- (b) to its north and northwest are an open storage yard, a residential dwelling/structure, woodland, grave and vacant land; and
- (c) to its east are open storage yards with parts of which subject to planning enforcement actions (No. E/YL-KTN/636, 637 and 638) against UD's involving storage use. To its further east across Kong Po Road is a nullah.

**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 and the size of the site is not in proportion with the proposed use.

## **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 the whole site by 0.1m in depth for site formation of structures, parking of vehicles and activity area for dogs. 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, open storage/storage yards, active farmland, grassland and vacant land. Although there are residential structures/dwellings in the vicinity of the Site (nearest one at about 30m to its southwest) (**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. 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, 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 an approved previous application (No. A/YL-KTN/672) for the same use (for cattery only and 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/or 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 30 approved similar applications for temporary animal boarding establishment (12 of which involve filling of land) within the same “AGR” zone in the vicinity of the Site in the past 5 years. Approval of the current application is in line with the Committee’s previous decisions on similar applications.
- 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 7:00 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 7:00 p.m. to 9:00 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**

<b>Appendix I</b>	Application form and supplementary information received on 12.4.2023 and 19.4.2023
<b>Appendix Ia</b>	FI received on 16.5.2023
<b>Appendix Ib</b>	FI received on 5.6.2023
<b>Appendix II</b>	Previous and similar applications
<b>Appendix III</b>	Government departments' general comments
<b>Appendix IV</b>	Recommended advisory clauses
<b>Appendix V</b>	Public comment
<b>Drawing A-1</b>	Site layout plan
<b>Drawing A-2</b>	Land filling plan
<b>Plan A-1</b>	Location plan with similar applications
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos