

RNTPC Paper No. A/YL-KTN/910A
For Consideration by the
Rural and New Town
Planning Committee
on 8.9.2023

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

APPLICATION NO. A/YL-KTN/910

Applicant : Mr. TANG Tsz Ki

Site : Lots 609 and 610 in D.D. 109, Kam Tin North, Yuen Long, New Territories

Site Area : About 1,713m²

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 : 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 and ‘Animal Boarding Establishment’ is a Column 2 use within 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 fenced off, paved, erected with a few temporary structures and used for the applied use without valid planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the development involves 5 single-storey structures (not more than 3m in height) with a total floor area of about 133.32m² for animal boarding establishment, ancillary office and storage uses. The applicant also applies for regularisation filling of land at a depth of 0.3m (from +5.7mPD to +6.0mPD) for part of the Site (about 1,007.7m² or 58.8%), of which an area of about 699.7m² has already been paved with concrete and the remaining area of about 308m² has been filled with gravel, for site formation of structures and parking and circulation of vehicles.
- 1.3 The applicant states that the operation hours are from 8:00 a.m. to 6:00 p.m. daily (except overnight animal boarding). The animal boarding establishment would accommodate not more than 15 dogs at the Site. 2 to 3 staff members will be

stationed at the Site to support the operation of the animal boarding establishment. Not more than 6 dogs with dog masks will be allowed outdoor at the same time during the operation hours. All dogs will be kept inside the enclosed structures built with sound proofing materials and 24-hour mechanical ventilation and air conditioning systems after the operation hours. No public announcement system, whistle blowing or any form of audio amplification system will be used at the Site. 1 loading/unloading space for light goods vehicle will be provided within the Site. The Site is accessible from Kam Hing Road via local tracks (**Plan A-1**). The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1** and **A-2**.

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

- (a) Application form with supplementary information received on 17.4.2023 (**Appendix I**)
- (b) Further Information (FI) received on 30.5.2023* (**Appendix Ia**)
- (c) FI received on 10.7.2023* (**Appendix Ib**)

**exempted from publication and recounting requirements*

1.5 On 9.6.2023, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application for two months as requested by the applicant.

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 at **Appendices I** to **Ib**. They can be summarised 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 not incompatible with the surrounding environment.
- (b) Land filling is necessary for meeting the operational need of the animal boarding establishment and is kept to minimal. The Site will be reinstated upon expiry of the planning approval.
- (c) There is a drop in the demand for hobby farm. The applied use can cater for the increasing demand for animal boarding services in the surrounding area. There are similar animal boarding establishment applications approved in the same “AGR” zone.
- (d) The development will not induce adverse traffic, environmental and drainage impacts to 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 Sections 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 not subject to any active planning enforcement action.

5. **Previous Applications**

The Site is involved in two previous applications (No. A/YL-KTN/691 and 726) for proposed temporary hobby farm which are not relevant to the current application. Details of the previous applications are summarised at **Appendix II** and the locations are shown on **Plan A-2**.

6. **Similar Applications**

- 6.1 There are 43 similar applications, involving 36 sites, for temporary animal boarding establishment (28 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 July 2023 mainly on the considerations that temporary approval would not frustrate the long-term planning intention; the development was not incompatible with the surrounding land uses; and relevant departments consulted in general had no adverse comment on the application and/or their concerns could be addressed by relevant approval conditions. The planning permissions for 12 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**.

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

7.1 The Site is:

- (a) partly fenced off, paved, erected with a few temporary structures and used for the applied use without valid planning permission;
- (b) accessible from Kam Hing Road via local tracks; and
- (c) falls within Yuen Shan Site of Archaeological Interest (**Plan A-2**).

7.2 The surrounding areas have the following characteristics:

- (a) to its north and east are active farmland, plant nursery and vacant land;
- (b) to its south and southeast are residential structures/dwellings (the nearest adjacent to the southern boundary of the Site), active farmland and vehicle park; and
- (c) to its west are residential structures/dwellings and grassland. To its further west is an area zoned “Village Type Development” (“V”) with pond, sitting-out area, grassland and residential structures/dwellings.

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 Bureau/Departments**

All the government bureau/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 (Appendix V)**

The application was published for public inspection. During the statutory publication period, two public comments from Kadoorie Farm and Botanical Garden Corporation and an individual were received objecting to the application mainly on the grounds that the

applied use is not in line with the planning intention of the “AGR” zone; consideration should be given on whether it is appropriate to allow non-agricultural uses to be spread in the “AGR” zone; the applied use is not the genuine intention; and the approval conditions in the previous planning permission were not fulfilled.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary animal boarding establishment with ancillary facilities for a period of 5 years and filling of land at the Site zoned “AGR” (**Plan A-1**). The development is not in line with the planning intention of the “AGR” zone which is primarily 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. The Director of Agriculture Fisheries and Conservation considers that the Site can be rehabilitated for agricultural activities, though whether there will be agricultural activities on specific site will hinge on a lot of factors. Taking into account the planning assessment below, the development on a temporary basis of 5 years could be tolerated.
- 11.2 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 objection from 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.
- 11.3 The development is considered not incompatible with the surrounding land uses which are rural in character predominated by active farmland, residential structures/dwellings, grassland, pond and vacant land. The Chief Town Planner/Urban Design and Landscape, Planning Department considers that significant adverse impact on the landscape resources and character arising from the proposed use is not anticipated and has no objection to the application from landscape planning perspective. Although there are residential dwellings/structures in the vicinity of the Site (the nearest adjacent to the southern boundary of the Site) (**Plan A-2**), the applicant states that all the dogs will be kept inside the enclosed structures built with sound proofing materials and equipped with 24-hour mechanical ventilation and air conditioning systems after the operation hours. DEP has no objection to the application.
- 11.4 Other relevant departments consulted, including the Commissioner for Transport and the Director of Fire Services, have no objection to or no adverse comment on the application. To 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 to mitigate possible environmental nuisance, 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 if septic tank and soakaway system will be used at the Site.

- 11.5 There are 42 approved similar applications 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 involve 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 two public comments objecting to the application, the departmental comments and planning 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 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 8.9.2028. 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 six 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 8.3.2024;
- (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 8.6.2024;
- (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 8.3.2024;

- (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 8.6.2024;
- (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, as proposed by the applicant, 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 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 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. 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 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 with supplementary information received on 17.4.2023
Appendix Ia	FI received on 31.5.2023

Appendix Ib	FI received on 10.7.2023
Appendix II	Previous and 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	Paved area plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
SEPTEMBER 2023**