

RNTPC Paper No. A/YL-KTN/921
For Consideration by
the Rural and New Town
Planning Committee
on 28.7.2023

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/921

- Applicant** : Mr. TSOI Tak Lee represented by Goldrich Planners and Surveyors Ltd.
- Site** : Lots 1041, 1042, 1043 and 1044 in D.D. 109 and Adjoining Government Land, Yuen Long, New Territories
- Site Area** : About 3,660m² (including about 33m² of Government land)
- Land Status** : (i) Block Government Lease (demised for agricultural use)
(about 99.9% of the Site)
- (ii) Government Land (GL) (about 0.1% of the Site)
- 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 partly paved, erected with a few temporary or abandoned structures, deposited with construction materials and partly covered by weeds (**Plans A-2 to A-4b**).
- 1.2 According to the applicant, the proposed development involves seven single-storey structures (building heights of 5m) with a total floor area of about 936m² for animal boarding establishment, ancillary office, reception, storage uses (**Drawing A-1**). The applicant also applies for filling of land at a depth of 0.4m (from +13.1mPD to +13.5mPD) for an area of 2,986m² (82%)

for site formation of structures, parking of vehicles and open space for dogs. The proposed 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 30 dogs. 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. Three parking spaces for private car and one 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 Tai Road (**Plans A-2 and A-3**). The site layout plan and paving 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 received on 31.5.2023 **(Appendix I)**
- (b) Further information (FI) received on 11.7.2023* **(Appendix Ia)**

**accepted and 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 and FI in **Appendices I and Ia**. 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) No land filling works will be conducted in the western portion of the Site where existing trees are located. No tree felling will be carried out. 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. For the Government land portion, the "Owner's Consent/Notification" Requirements are not applicable.

4. Background

The Site is currently not subject to any active planning enforcement action. Should there be sufficient evidence to form an opinion of unauthorised development under the Town Planning Ordinance at the Site, enforcement action would be investigated as appropriate.

5. Previous Application

There is no previous application at the Site.

6. Similar Applications

6.1 There are 31 similar applications (including renewal of temporary planning approval), involving 21 sites, for temporary animal boarding establishment (15 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 June 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 the relevant departments consulted in general had no adverse comment on the application or their technical concerns could be addressed by approval conditions. The planning permissions for 10 of them were revoked subsequently due to non-compliance with the approval conditions.

6.2 Details of the similar 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-4b)

7.1 The Site is:

- (a) partly paved, erected with a few temporary or abandoned structures, deposited with construction materials and partly covered by weeds;
- (b) partly within the Tai Kong Po (大江埔) Site of Archaeological Interest (SAI); and
- (c) accessible from Kong Tai Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its north are grassland and graves within an area zoned “Green Belt”;
- (b) to its east are parking of vehicles, storage yard and vacant land; and
- (c) to its south are grassland, active farmland, residential dwellings/ structures (the nearest at about 40m to its south) and vacant land.

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 Departments

- 9.1 Apart from the government department as set out in paragraph 9.2 below, other 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.
- 9.2 The following government department has concern on the application:

Heritage Conservation

- 9.2.1 Comments of the Chief Heritage Executive (Antiquities and Monuments), Antiquities and Monuments Office (CHE(AM), AMO):

The Site is partially situated within the Tai Kong Po SAI (**Plan A-2**). The submission suggests that the proposed development of the temporary animal boarding establishment does not involve any ground excavation works. However, applicant’s submission indicates that a drainage proposal with provision of peripheral u-channels and catch-pits to mitigate adverse drainage impact generated by the development will be submitted to the Drainage Services Department (DSD) after planning approval has been granted by the Town Planning Board. As such, AMO has concern on the adverse impact on the Tai Kong Po SAI arising from the proposed drainage works. If drainage facilities are required for the proposed development, the applicant is required to submit his drainage proposal to AMO for comment and agreement on the mitigation measures at the early planning stage before implementation.

10. Public Comment Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory public inspection period, three public comments from the Kadoorie Farm and Botanic Garden Corporation and individuals were received. While an individual provides views that the Site can be turned into a pet-friendly park with landscaping area, the Kadoorie Farm and Botanic Garden and the other individual object to the application mainly on the grounds that the proposed development is not in line with the planning intention; there would be cumulative impact; and the Site should be used as agricultural purpose.

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 2,986m² or 82%) by 0.4m in depth. The planning intention of the “AGR” zone 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. 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 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 DSD (CE/MN of DSD) and the Director of Environmental Protection (DEP) have no adverse comment 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.
- 11.2 The proposed development is considered not incompatible with the surrounding land uses which are rural in character predominated by residential structures/dwellings, farmland, grassland and vacant land. Although there are residential structures/dwellings in the vicinity of the Site (nearest one at about 40m to its south) (**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. DEP has no objection to 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 address the technical requirements of concerned government departments including

those from AMO regarding potential impact of drainage works on the SAI, appropriate approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised to follow the revised “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 completion of percolation test and certification by Authorized Person if septic tank and soakaway system will be used.

- 11.4 There are 31 approved similar applications for temporary animal boarding establishment within the same “AGR” zone in the vicinity of the Site in the past 5 years as stated in paragraph 6.1 above. Approval of the current application is in line with the Committee’s previous decisions on similar applications.
- 11.5 Regarding the public comments on the application as detailed in paragraph 10 above, the government departments’ 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 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 28.7.2028. 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 structures with soundproofing materials and the provision of 24-hour mechanical ventilation and air-conditioning system 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 and the Chief Heritage Executive (Antiquities and

Monuments), Antiquities and Monuments Office or of the Town Planning Board by 28.1.2024;

- (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 and the Chief Heritage Executive (Antiquities and Monuments), Antiquities and Monuments Office or of the Town Planning Board by 28.4.2024;
- (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 28.1.2024;
- (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 28.4.2024;
- (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 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 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 received on 31.5.2023
Appendix Ia	FI received on 11.7.2023
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	Paving plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a and A-4b	Site photos