

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

**APPLICATION NO. A/YL-KTN/931**

<b><u>Applicant</u></b>	:	Mr. Tsoi Tak Lee represented by Goldrich Planners and Surveyors Limited
<b><u>Site</u></b>	:	Lot 27 RP in D.D. 110 and Adjoining Government Land, Tai Kong Po, Kam Tin, New Territories
<b><u>Site Area</u></b>	:	About 3,330m <sup>2</sup> (including Government land of about 577 m <sup>2</sup> (17.3%))
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Draft Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/10
<b><u>Zoning</u></b>	:	“Agriculture” (“AGR”)
<b><u>Application</u></b>	:	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 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 mainly vacant, fenced, partly paved and partly covered with weeds (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development involves six structures (1 storey and 5m in height) with total floor area of about 1,205m<sup>2</sup> for animal boarding establishment, ancillary office and storage uses. The applicant also applies for filling of land of about 3,205m<sup>2</sup> for about 0.1m in depth (ranging from +12mPD to +12.1mPD and from +14mPD to +14.1mPD) for site formation of structures and vehicle manoeuvring. The operation hours of the proposed development are between 9:00 a.m. and 7:00 p.m. daily, including Sundays and public holidays. Not more than 25 dogs will be kept within the Site and all dogs will be kept inside the enclosed animal boarding structures equipped with sound proofing materials, air conditioning and mechanical ventilation systems after operation hours. No public announcement system

and whistle blowing will be used at the Site. Four parking spaces for private car and two parking spaces for light goods vehicle will be provided within the Site. The Site is accessible from Kong Po Road via a local access (**Plan A-2**). The site layout plan submitted by the applicant are at **Drawing A-1**.

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

(a) Application form with supplementary information (**Appendix I**) received on 15.6.2023

(b) Further information (FI) received on 8.8.2023\* (**Appendix Ia**)

*\* 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 FI in **Appendices I and Ia**. 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.
- (b) The development is compatible with the surrounding environment and similar applications are found within the same “AGR” zone in the vicinity.
- (c) The filling of land of about 0.1m in depth is for site formation of structures and vehicle manoeuvring.
- (d) The development will not induce significant adverse traffic and drainage impacts on the surrounding area.

## **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. Regarding the portion of the Site falling within Government land, the “Owner’s Consent / Notification” Requirements are not applicable.

## **4. Background**

Part of the Site is currently subject to planning enforcement action (Nos. E/YL-KTN/636, 637 and 638) against an unauthorised developments (UD) involving

storage uses (**Plan A-2**). Enforcement Notices were issued on 12.4.2023 to the concerned parties requiring discontinuation of the UD. As revealed in site inspection on 13.7.2023, the Site is largely vacant. The Site will be subject to monitoring. If the notice is not complied with, prosecution will be taken.

**5. Previous Application**

There is no previous application at the Site.

**6. Similar Applications**

- 6.1 There are 27 similar applications 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 Rural and New Town Planning Committee (the Committee) between January 2018 and June 2023 mainly on the considerations that the temporary approval would not frustrate the long-term planning intention; the development was not incompatible with the surrounding land uses; relevant government departments consulted in general had no adverse comment or their technical concerns could be addressed by approval conditions. The planning permissions for eight 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/923 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) mainly vacant, fenced, partly paved and partly covered with weeds; and
  - (b) accessible from Kong Po Road via a local access.
- 7.2 The surrounding areas have the following characteristics:
- (a) to its north and northwest are graves, grassland, open storage yards of construction materials and vehicles;
  - (b) to its west and south are open storage of vehicles, residential dwellings/structures (the nearest about 40m from the Site), farmland and grassland; and
  - (c) to its east across Kong Po Road and a nullah are storages/open storage yards, residential dwellings/structures, farmland and grassland.

## **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, planning permission from the Board is required for such activities.

## **9. Comments from Relevant Government Departments**

All 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**

The application was published for public inspection. During the statutory public inspection period, two public comments were received from Kadoorie Farm & Botanic Garden Corporation and an individual. Kadoorie Farm & Botanic Garden Corporation raises concerns on the existing status and use of the Site. The comment from the individual objects to the application mainly on the grounds that the intention of the application is believed to be for storage 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 and filling of land at the Site zoned “AGR” (**Plan A-1**). The proposed use 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 such as open-field cultivation, greenhouses, plant nurseries, etc., though whether there will be agricultural activities on a specific site will hinge on a lot of factors. Taking into account the planning assessments below, the proposed development on a temporary basis of 5 years could be tolerated. Filling of land within “AGR” zone requires planning permission as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD) and the Director of Environmental Protection (DEP) have no objection to the proposed filling of land 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 areas which are rural in character intermixed with residential dwellings/structures, open storage/storage yards, farmland and grassland. The Chief Town Planner/Urban Design and Landscape, Planning Department considers that significant adverse impact on landscape resources and character arising from the proposed use is not anticipated and has no objection to the application from landscape planning perspective. Whilst there are residential dwellings/structures in the vicinity, according to the applicant, all dogs will be kept inside the enclosed structures equipped with soundproofing materials, air conditioning and mechanical ventilation systems after operation hours, and no public announcement system will be used. DEP has no adverse comment on the application.
- 11.3 Other relevant departments consulted including the Commissioner for Transport, CE/MN of DSD and the Director of Fire Services have 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 revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by DEP to minimise possible environmental nuisances 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.
- 11.4 There are 27 approved similar applications for temporary animal boarding establishment in the vicinity of the Site as detailed in paragraph 6.1. Approval of the current application is in line with the Committee's previous decisions.
- 11.5 Regarding the public comments as detailed in paragraph 10 above, 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 comments mentioned in paragraph 10, 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 11.8.2028. 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., 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 structure 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 11.2.2024;
- (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 11.5.2024;
- (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 11.2.2024;
- (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 11.5.2024;
- (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 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. This zone 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 with supplementary information received on 15.6.2023
<b>Appendix Ia</b>	FI received on 8.8.2023
<b>Appendix II</b>	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>Plan A-1</b>	Location plan with similar applications
<b>Plan A-2</b>	Site plan

**Plan A-3**                      Aerial photo

**Plan A-4**                      Site photos

**PLANNING DEPARTMENT  
AUGUST 2023**