

RNTPC Paper No. A/YL-KTN/954
For Consideration by
the Rural and New Town
Planning Committee
on 13.10.2023

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/954

Applicant : 黃庭杰先生

Site : Lot 1143 S.B. ss.1 in D.D. 109, Kam Tin North, Yuen Long

Site Area : About 441.5m²

Land Status : 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 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 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 deposited with construction materials (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development involves two single-storey structures (building height of not more than 2.5m) with a total floor area of about 101m² for animal boarding establishment and ancillary office and storage uses (**Drawing A-1**). The applicant also applies for filling of land by concrete at a depth of 0.1m (from +6.8mPD to +6.9mPD) for an area of 300m² (68% of the Site) for site formation of structures and open space for dogs. The proposed operation hours will be from 8:00 a.m. to 6:00 p.m. daily (except overnight animal boarding). Landscape area of about 141.5m² would be provided. The animal boarding establishment would accommodate about 12 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. No parking space will be provided at the Site. The Site is accessible via a local track branching off from Chi Ho 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 23.8.2023 **(Appendix I)**
- (b) Further information (FI) received on 26.9.2023 and 3.10.2023* **(Appendix Ia)**
- (c) FI received on 5.10.2023* **(Appendix Ib)**
- (d) FI received on 6.10.2023* **(Appendix Ic)**
- (e) FI received on 10.10.2023* **(Appendix Id)**

**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 to meet the demand for animal boarding establishment.
- (b) The filling of land of about 0.1m in depth is for site formation of structures and open space for dogs. The paved area has been minimized to support the daily operation of the development. The applicant undertakes to remove the paving when the development is discontinued.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to any active planning enforcement action. Subject to collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be undertaken.

5. Previous Application

There is no previous application at the Site.

6. Similar Applications

6.1 There are 34 similar applications (including renewal of temporary planning approval), involving 25 sites, for temporary animal boarding establishment (18 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 August 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-4)

7.1 The Site is:

- (a) fenced off, partly paved and deposited with construction materials; and
- (b) accessible from Chi Ho Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its north and east are hobby farms, residential structures/dwellings (nearest one at about 10m to its east), cultivated and fallowed agricultural land, vacant land and grassland;
- (b) to its south are plant nursery, vacant land and residential structures/dwellings; and
- (c) to its west and southwest across a local track are vacant land and an area zoned “Green Belt” with woodland and graves.

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

All government departments consulted have no objection to or no adverse comments 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, a public comment from an individual was received objecting to the application mainly on the grounds that the Site has been operated as brownfield use without planning permission; there is no information on the demand for the proposed use; and approval of the application would convert farmland into brownfield use.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary animal boarding establishment for a period of 5 years and filling of land at the Site zoned “AGR” (**Plan A-1**). 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. The proposed development is not in line with the planning intention of the “AGR” zone, and the Director of Agriculture, Fisheries and Conservation considers that the Site can be rehabilitated for agricultural facilities, 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 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.
- 11.3 The proposed development is considered not incompatible with the surrounding land uses which are rural in character predominated by residential structures/dwellings, farmland and vacant land. Although there are residential structures/dwellings in the vicinity 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. DEP has no objection to the application.

- 11.4 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, 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.
- 11.5 There are 34 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. Approving of the current application is in line with the Committee’s previous decisions.
- 11.6 Regarding the public comment 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 13.10.2028. 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 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 13.4.2024;
- (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 13.7.2024;
- (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 13.4.2024;
- (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 13.7.2024;
- (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 23.8.2023
Appendix Ia	FI received on 26.9.2023 and 3.10.2023
Appendix Ib	FI received on 5.10.2023
Appendix Ic	FI received on 6.10.2023
Appendix Id	FI received on 10.10.2023
Appendix II	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	Paving plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
OCTOBER 2023**