

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/958

<u>Applicant</u>	:	Ms. KO Tsui Man represented by Metro Planning and Development Company Limited
<u>Site</u>	:	Lots 1347 S.V, 1347 S.AB and 1347 S.AC in D.D.107, Fung Kat Heung, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	:	About 260m ²
<u>Land Status</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Draft Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/10
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Temporary Animal Boarding Establishment for a Period of 3 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 three 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 the “AGR” zone also requires planning permission from the Board. The Site is vacant, fenced off, partly paved and partly covered with weeds (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development involves a single-storey structure (building height of not more than 4.5m) with a total floor area of not more than 73m² for day-use cattery and ancillary toilet uses (**Drawing A-1**). The applicant also applies for regularisation of filling of land by concrete at a depth of 0.2m (from +18.6mPD to +18.8mPD) for an area of about 73m² (28.1% of the Site) for site formation of the structure. The animal boarding establishment will accommodate no more than eight cats and other animals will not be allowed. There will also be no more than two staff members and three visitors at the Site per day. The proposed operation hours will be from 9:00 a.m. to 7:00 p.m. daily, with no cats nor staff staying at the Site after

operation hours. No public announcement system will be used at the Site. All cats will be kept within enclosed structures built with sound proofing materials and equipped with mechanical ventilation and air-conditioning systems. A parking space for private car will be provided at the Site. The Site is accessible via a local track branching off from Fung Kat Heung Road (**Plans A-2 and A-3**). The site layout plan and land filling 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 with attachments received on **(Appendix I)**
30.8.2023
- (b) Further information (FI) received on 17.10.2023* **(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, attachments and FI in **Appendices I and Ia**. They can be summarised as follows:

- (a) The application is on a temporary basis and its approval would not jeopardise the long term planning intention of the “AGR” zone. The proposed development is not incompatible with the surrounding environment. There were similar applications approved.
- (b) The scale of the proposed filling of land is small which has been minimised to support the daily operation of the development. The applicant undertakes to reinstate the Site to its original state when the development is discontinued.
- (c) The proposed development will be maintained in a sanitary condition with regular pest control and disposal of animal, food, excreta and other wastes. There will be adequate supplies of potable water and suitable drainage facilities at the Site.
- (d) The applicant will 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) for mitigation measures and the Water Pollution Control Ordinance for effluent discharges. The proposed development will not induce adverse traffic, environmental and drainage impacts on the surrounding areas.

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.

5. Previous Application

There is no previous application at the Site.

6. Similar Applications

6.1 There are 45 similar applications 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 five years. Except application No. A/YL-KTN/759, all applications were approved with conditions by the Committee between March 2018 and October 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 or their concerns could be addressed by relevant approval conditions. The planning permissions for 15 of them were revoked subsequently due to non-compliance with 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 later application No. A/YL-KTN/781 for the same use at the same site was approved by the Committee in September 2021 when all the existing structures previously excluded from application No. A/YL-KTN/759 were included in the application site.

6.3 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) vacant, fenced off, partly paved and partly covered with weeds; and
- (b) accessible from Fung Kat Heung Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its north, northeast and east are a vacant structure approved for animal boarding establishment (application No. A/YL-KTN/755),

storage yards, residential structures/dwellings, dog kennels (with valid planning permissions under applications No. A/YL-KTN/757 and 836), vacant land and woodland;

- (b) to its south and southeast are a vacant site approved for animal boarding establishment (application No. A/YL-KTN/797) and ponds. To its southwest is a holiday camp cum hobby farm (with valid planning permission under application No. A/YL-KTN/823); and
- (c) to its west and northwest are open storage, a pond, a pigsty farm, residential structures/dwellings 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

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

The application was published for public inspection. During the statutory public inspection period, no public comment from was received.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary animal boarding establishment for a period of three 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. 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 assessments below, the proposed use on a temporary basis of three 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 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 intermixed with animal boarding establishments, storage yards, residential structures/dwellings, ponds and vacant land.
- 11.4 Other relevant departments consulted, including the Commissioner for Transport, CE/MN of DSD, the Chief Town Planner/Urban Design and Landscape of Planning Department 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 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 Authorised Person if septic tank and soakaway system will be used.
- 11.5 There are 44 approved similar applications in the vicinity of the Site in the past five years. The circumstances of the only rejected similar application (No. A/YL-KTN/759) which involved a fragmented application site as stated in paragraph 6.2 above are different from the current application. Approving the current application is in line with the Committee’s previous decisions.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 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 three years until 27.10.2026. The following approval conditions and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation is allowed and no animal shall be kept between 7:00 p.m. and 9:00 a.m. on the site, as proposed by the applicant, during the planning approval period;
- (b) all animals shall be kept inside the enclosed structures, 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 revised 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 27.4.2024;
- (e) in relation to (d) above, the implementation of the revised 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 27.7.2024;
- (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 27.4.2024;
- (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 27.7.2024;
- (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 with attachments received on 30.8.2023
Appendix Ia	FI received on 17.10.2023
Appendix II	Similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Drawing A-1	Site layout plan
Drawing A-2	Land filling 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**