

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/998

<u>Applicant</u>	:	Mr. CHENG Siu Chung represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lot 1218 RP (Part) in D.D. 109, Tai Kong Po, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	:	About 1,371m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Kam Tin North Outline Zoning Plan No. S/YL-KTN/11
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Temporary Animal Boarding Establishment with Ancillary Facilities for a Period of Five Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary animal boarding establishment with ancillary facilities for a period of five years and filling of land at the application site (the Site), which falls within an area zoned “AGR” on the approved Kam Tin North OZP No. S/YL-KTN/11 (**Plan A-1**). According to the Notes of the OZP, ‘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 the “AGR” zone also requires planning permission from the Board. The Site is currently fenced-off, partly paved and used for the applied use with structures without valid planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the applied use involves four single-storey structures with a total floor area of about 352m² and building heights of not more than 4m for animal boarding establishment, rain shelter for animal activities, meter room and storage room (**Drawing A-1**). The applicant also applies for regularisation of filling of land for part of the Site (about 938m² or 68%) with concrete by about 0.2m (up to +8.6mPD) for site formation of structures and circulation (**Drawing A-2**). The operation hours of the animal boarding establishment are from 9:00 a.m. to 6:00 p.m. daily including public holidays (except overnight animal boarding). It will accommodate not more than 60 dogs and all animals will be kept inside the enclosed structures built with sound proofing materials and equipped with mechanical ventilation and air conditioning systems after operation

hours. Not more than five staff members will be stationed at the Site during the operation hours to support the operation of the animal boarding establishment. No public announcement system, whistle blowing or any form of audio amplification system will be used at the Site. Three parking spaces for private car and one loading/unloading space for light goods vehicle will be provided within the Site. The Site is directly accessible from Kong Tai 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** respectively.

- 1.3 The Site is involved in three previous applications approved with conditions for the same applied use and submitted by the same applicant as the current application (details under paragraph 5 below). All three planning permissions had subsequently been revoked due to non-compliance with the approval conditions. Compared with the last application (No. A/YL-KTN/881), the current application involves no change to the site boundary/area, layout and major development parameters.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary information received (**Appendix I**) on 29.2.2024
 - (b) Further Information (FI) received on 6.5.2024* (**Appendix Ia**)
 - (c) FI received on 6.6.2024* (**Appendix Ib**)
 - (d) FI received on 19.6.2024* (**Appendix Ic**)
- * *accepted and exempted from publication and recounting requirements*
- 1.5 On 19.4.2024, the Rural and New Town Planning Committee (the Committee) of the Board 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 FI in **Appendices I to Ic**. 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 Site is the subject of previous applications approved for the same applied use and submitted by the same applicant as the current application. The approval of the current application would not set an undesirable precedent for similar application within the “AGR” zone.
- (b) The applicant has made genuine efforts to comply with the approval conditions related to the submission of drainage record and the implementation of the fire service installations (FSIs) proposal on the Site under the last approved application No. A/YL-KTN/881. For the drainage record, despite two compliance submissions made, the approval condition could not be complied with to the

satisfaction of the Drainage Services Department within the specified time limit. For the FSIs implementation, the applicant had completed the FSIs construction works during the previous approval period but could not obtain the relevant approval from the Water Supplies Department for the required water supply within the specified time limit. Under the current application, a revised FSIs proposal without the use of fire hose reel has been submitted and the FSIs proposal has been implemented with a set of Certificate of Fire Service Installation and Equipment (FS251) also submitted. Besides, the as-built drainage plan and record of the implemented drainage facilities are submitted in support of the current application.

- (c) The applied filling of land is required to meet the operational need of the applied use and no further filling of land will be carried out at the Site. The applicant undertakes to reinstate the Site to an amenity area upon expiry of the planning approval.
- (d) A maximum of eight visitors would be allowed to visit the Site and advance reservation for the use of visitor parking spaces is required. All dogs will wear dog masks while staying outdoor to minimise the noise generated. Licensed collectors will be employed to collect and dispose the sewage generated by the applied use. Approval of the application would not induce adverse environmental, traffic and drainage impacts on the surrounding areas.

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

The applicant is not a ‘current land owner’ of the Site 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. 31B) by posting site notice and sending notice to the Pat Heung Rural Committee by registered mail. 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 Applications

- 5.1 The Site is the subject of three previous applications (No. A/YL-KTN/590, 638 and 881) submitted by the same applicant as the current application for temporary animal boarding establishment (application No. A/YL-KTN/590 was for a period of three years and applications No. A/YL-KTN/638 and 881 were for periods of five years respectively; and application No. A/YL-KTN/881 also included filling of land). All of these applications were approved with conditions by the Committee between March 2018 and February 2023 mainly on the considerations that temporary approval would not frustrate the long-term planning intention of “AGR” zone; the applied use was not incompatible with the surrounding land uses; and relevant departments consulted in general had no adverse comment on the

application or their technical concerns could be addressed by relevant approval conditions. The planning permissions under these three applications were subsequently revoked between September 2018 and February 2024 due to non-compliance with the approval conditions (including submission and implementation of drainage and FSIs proposals for application No. A/YL-KTN/590; implementation of FSIs proposal for application No. A/YL-KTN/638; and submission of drainage record and implementation of FSIs proposal for application No. A/YL-KTN/881).

- 5.2 Details of the previous applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are 25 similar applications involving 20 sites for temporary animal boarding establishment (including four renewals of temporary permissions and 16 applications with filling of land) within the same “AGR” zone in the vicinity of the Site in the past five years. All these applications were approved with conditions by the Committee between May 2019 and December 2023 on similar considerations as mentioned in paragraph 5.1 above. The planning permissions for 12 of the approved applications were subsequently revoked due to non-compliance with the approval conditions.
- 6.2 Details of the similar applications are summarised in **Appendix II** and their 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) currently fenced-off, partly paved and used for the applied use with structures without valid planning permission; and
 - (b) directly accessible from Kong Tai Road.
- 7.2 The surrounding areas are rural in character mainly intermixed with vacant land, farmland, residential structures/dwellings, storage yards, warehouse and workshop. The storage yards, warehouse and workshop are all without valid planning permission.

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 for “AGR” zone, 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 the 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 Comments Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory public inspection period, one public comment from an individual was received objecting to the application mainly on the grounds that the applicant failed to comply with the approval conditions under the previous applications.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary animal boarding establishment with ancillary facilities for a period of five 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 applied use is not entirely 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 such as open-field cultivation, greenhouses, plant nurseries, etc., 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 applied use on a temporary basis of five 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 have no objection to the application 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 applied use is considered not incompatible with the surrounding land uses intermixed with farmland, residential structures/dwellings, storage yards, warehouse and workshop. The Chief Town Planner/Urban Design and Landscape of the Planning Department has no objection to the application from landscape planning perspective considering that significant adverse landscape impact arising from the applied use is not anticipated.

- 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 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 to follow the relevant Professional Persons Environmental Consultative Committee Practice Note (PN) 1/23 on Drainage Plans subject to Comment by EPD.
- 11.5 The Site is involved in three previous approved applications (No. A/YL-KTN/590, 638 and 881) for temporary animal boarding establishment with/without filling of land submitted by the same applicant as the current application as detailed in paragraph 5.1 above. All of these planning permissions were subsequently revoked due to non-compliance with the approval conditions. Since the granting of the first permission in 2018, the applicant has failed to comply with the approval conditions related to the submission of FSIs and drainage proposals (application No. A/YL-KTN/590); implementation of FSIs proposal (applications No. A/YL-KTN/590, 638 and 881); implementation of drainage proposal (application No. A/YL-KTN/590); and submission of drainage record (application No. A/YL-KTN/881), resulting in three consecutive revocations. For the last application, the applicant had made submissions of drainage record but they were not accepted by CE/MN of DSD before expiry of the specified time limit; and the applicant had also completed the FSIs construction works but could not obtain the relevant approval for the required water supply within the specified time limit. For the current application, the applicant has submitted a revised FSIs proposal without the use of fire hose reel and the revised FSIs proposal has been implemented. The applicant has also submitted the related Certificate of Fire Service Installation and Equipment (FS251) and the relevant drainage record of the implemented drainage facilities. All the above-mentioned submission and implementation of drainage and FSIs facilities under the current application are accepted by CE/MN of DSD and the Director of Fire Services. The applicant has therefore demonstrated tangible efforts in addressing the potential drainage impacts and fire risk of the applied use. Compared with the last approved application No. A/YL-KTN/881, the current application involves no change to the site boundary/area, layout and major development parameters. In view of the above, sympathetic consideration could be given to the application. Approval conditions requiring maintenance of the implemented FSIs and drainage facilities are recommended in paragraph 12.2 below. Moreover, the applicant will be advised that should he fail to comply with any of the approval conditions resulting in revocation of the planning permission, sympathetic consideration would not be given to any further application.
- 11.6 There are 25 approved similar applications for temporary animal boarding establishment with/without filling of land within the same “AGR” zone in the vicinity of the Site in the past five years as stated in paragraph 6.1 above. Approving the current application is in line with the Committee’s previous decisions.

- 11.7 Regarding the public comment mentioned in paragraph 10, 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 comment 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 five years until 5.7.2029. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) all animals shall be kept inside the enclosed structures on the site from 6:00 p.m. and 9:00 a.m., as proposed by the applicant, during the planning approval period;
- (b) 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;
- (c) the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) the implemented fire service installations on the site should be maintained in efficient working order at all times during the planning approval period;
- (e) if any of the above planning condition (a), (b), (c) or (d) 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;
- (f) 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 at **Appendix IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

three previous planning permissions granted on the site were revoked due to non-compliance with the approval conditions. Approval of the application with repeated non-compliances with the approval conditions would set an undesirable precedent for other similar applications, thus nullifying the statutory planning control mechanism.

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 29.2.2024
Appendix Ia	FI received on 6.5.2024
Appendix Ib	FI received on 6.6.2024
Appendix Ic	FI received on 19.6.2024
Appendix II	Previous and 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	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
JULY 2024**