

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/919

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| <u>Applicant</u> | : | Mr. CHIU Chi San represented by PlanPlus Consultancy Limited |
| <u>Site</u> | : | Lot 1185 S.E RP in D.D. 106, Kam Tin, Yuen Long |
| <u>Site Area</u> | : | About 1,513 m ² |
| <u>Lease</u> | : | Block Government Lease (demised for agricultural use) |
| <u>Plan</u> | : | Approved Kam Tin South Outline Zoning Plan No. S/YL-KTS/15 |
| <u>Zoning</u> | : | “Agriculture” (“AGR”) |
| <u>Application</u> | : | 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 South OZP and the ‘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 currently fenced and vacant and part of which is overgrown with weeds (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development involves the erection of nine single-storey structures (maximum 5.5m high) with a total floor area of 387.52m² for indoor animal boarding facility, site office, resting room, container storage and toilet uses. About 66% of the Site (1,001m²) will be filled with concrete by not more than 0.2m in depth (from +13.5mPD to +13.7 mPD) for site formation of structures and circulation space. The operation hours will be from 9:00a.m. to 7:00p.m. daily. One light goods vehicle parking space and two light goods vehicle loading/unloading spaces are proposed within the Site. The applicant states that the animal boarding establishment will accommodate no more than 15 dogs / cats and all animals will be kept inside the enclosed animal boarding establishment and will leave the Site after the operation hours. The structure will be built with sound-proofing materials and provided with mechanical ventilation and air

conditioning system during operation hours. No public announcement system, whistle blowing or any form of audio amplification system will be used at the Site. The Site is accessible via a local track branching off from Kam Shui South Road (**Plan A-1**). 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 supplementary information (**Appendix I**) received on 21.2.2022
 - (b) Further information (FI) received on 23.3.2022 (**Appendix Ia**)
 - (c) FI received on 25.4.2022 (**Appendix Ib**)
 - (d) FI received on 16.5.2022 (**Appendix Ic**)
 - (e) FI received on 23.5.2022 and 25.5.2022 (**Appendix Id**)
- 1.4 In view of COVID-19 and the latest special work arrangement for government departments announced by the Government, the Rural and New Town Planning Committee (the Committee), on 1.4.2022, agreed to defer making a decision on some of the applications, including Application No. A/YL-KTS/919. The application is now scheduled for consideration by the Committee at this meeting.

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 FIs in **Appendices I to Id**. They can be summarized 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 and similar applications are found in the vicinity of the Site.
- (b) The filling of land of 0.2m in depth is for site formation and vehicle manoeuvring purposes to stabilise soil ground and prevent erosion from surface run-off and to withstand the heavy load of structures and vehicles. The extent of land filling has been kept to the minimum for meeting the operational need of the proposed animal boarding establishment.
- (c) No adverse environmental and traffic impact will be caused. Relevant practice notes and guidelines will be strictly followed to minimise nuisance to the surrounding area.

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 not subject to any planning enforcement action.

5. **Previous Application**

There is no previous application for the Site.

6. **Similar Applications**

6.1 There are five similar applications (No. A/YL-KTS/780, 789, 807, 877 and 906), involving four sites, for temporary animal boarding establishment (one of which with filling of land) within the “AGR” zone in the vicinity of the Site in the past 5 years. All the applications were approved with conditions by the Committee between May 2018 and November 2021 mainly on the grounds that temporary approval would not jeopardize the long-term planning intention of the “AGR” zone; the developments were considered not incompatible with the surrounding land uses; relevant departments in general had no objection; and the technical concerns of relevant departments could be addressed by appropriate approval conditions. Nevertheless, the planning permissions for two of them were revoked owing to non-compliance with the approval conditions.

6.2 Details of these applications are summarized 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 and vacant, and part of which is overgrown with weeds; and
- (b) accessible from Kam Shui South Road via a local access.

7.2 The surrounding areas have the following characteristics:

- (a) to its north across Kam Shui South Road is a nullah. Further north are open storage yards, residential dwellings/structures (the nearest about 50m to the northwest) and fallow / cultivated agricultural land;

- (b) to its east and southeast are open storage / storage yards and plant nurseries; and
- (c) to its west, southwest and south are warehouses / godowns, an open storage yard, residential dwellings / structures, workshops and cultivated agricultural land.

8. Planning Intention

- 8.1 The planning intention of the “AGR” zone is 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 objection to / reservation on the application.

Agriculture and Nature Conservation

Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) the Site falls within the “AGR” zone and is vacant. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the development proposal is not supported from agricultural perspective;
- (b) from nature conservation point of view, DAFC has no adverse comment on the application; and
- (c) DAFC’s other advisory comments are provided in the Recommended Advisory Clauses in **Appendix IV**.

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

The application was published for public inspection. During the statutory public inspection period, seven public comments, including five supporting and two objecting views, were received. Five individuals support the application mainly on the grounds that the Site is a suitable location for the proposed development, the proposed development will benefit pet owners nearby and could support animal adoption, whilst the Kadoorie Farm and Botanic Garden Corporation and an individual object to the application mainly on the grounds that the applicant is not genuine to use the Site for animal boarding establishment; the application is not in line with the planning intention; and approval of the application would set an undesirable precedent.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary animal boarding establishment for a period of 5 years at the Site zoned “AGR” (**Plan A-1**) and filling of land at the Site by not more than 0.2m in depth. The proposed development is not in line with the planning intention of the “AGR” zone which is 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. DAFC does not support the application from agricultural perspective as the Site falling within the “AGR” zone has potential for agricultural rehabilitation. Nevertheless, it is considered that approval of the application on a temporary basis for a period of five years 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, CE/MN of DSD and DEP have no adverse comment from the drainage and environmental perspectives.
- 11.2 The proposed use is considered not incompatible with the surrounding area which is rural in character intermixed by open storage / storage yards, warehouses / godowns, workshops, residential dwellings / structures (the nearest about 50m to the northwest), plant nurseries and fallow / cultivated agricultural land. Nevertheless, the applicant states that no more than 15 dogs / cats will be accommodated at the Site and all animals will be kept within the enclosed animal boarding establishment and will leave the Site after the operation hours. The structure will be built with sound-proofing materials and provided with mechanical ventilation and air-conditioning. In addition, no public announcement system, whistle blowing or any form of audio amplification system will be used at the Site. DEP has no objection to the application.
- 11.3 Relevant government departments consulted, including DEP, C for T, CE/MN of DSD, CTP/UD&L of PlanD and D of FS, have no adverse comment on the application. To minimize the possible environmental

nuisances generated by the development and 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 latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Uses” issued by DEP.

- 11.4 There are five similar applications approved for temporary animal boarding establishment (one of which involves filling of land) within the “AGR” zone in the vicinity of the Site in the past five years. Approval of the current application is in line with the Committee’s previous decisions on similar applications.
- 11.5 Apart from the five supporting views, two public comments objecting to the application were received during the statutory publication period as mentioned in paragraph 10 above. In this regard, 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 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 1.6.2027. 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 animal shall be kept inside the enclosed indoor animal boarding establishment structure on the Site, as proposed by the applicant, at all times 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 run-in/out proposal at Kam Shui South Road within **6** months from the date of planning approval to the satisfaction of the Director of Highways and the Commissioner for Transport or of the TPB by 1.12.2022;
- (e) in relation to (d) above, the implementation of the run-in/out proposal at Kam Shui South Road within **9** months from the date of

planning approval to the satisfaction of the Director of Highways and the Commissioner for Transport or of the TPB by 1.3.2023;

- (f) 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 1.12.2022;
- (g) in relation to (f) 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 1.3.2023;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) 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 1.12.2022;
- (j) in relation to (i) 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 1.3.2023;
- (k) if any of the above planning condition (a), (b), (c) or (h) 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; and
- (l) if any of the above planning condition (d), (e), (f), (g), (i) or (j) 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.

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 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

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| Appendix I | Application form with supplementary information received on 21.2.2022 |
| Appendix Ia | FI received on 23.3.2022 |
| Appendix Ib | FI received on 25.4.2022 |
| Appendix Ic | FI received on 16.5.2022 |
| Appendix Id | FI received on 23.5.2022 and 25.5.2022 |
| 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 | 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
JUNE 2022**