

RNTPC Paper No. A/YL-KTS/940A
For Consideration by
the Rural and New Town
Planning Committee
on 3.3.2023

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/940

Applicant : Ms. KOU Wai Peng represented by R-riches Property Consultants Limited

Site : Lots 1023 S.A, 1023 RP, 1024 S.A and 1024 RP in D.D. 113, Ho Pui, Kam Tin, Yuen Long

Site Area : About 1,608m²

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Kam Tin South Outline Zoning Plan No. S/YL-KTS/15

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 for proposed temporary animal boarding establishment for a period of five years and filling of land at the application site (the Site). The Site is zoned “AGR” on the Kam Tin South OZP (**Plan A-1**) and the ‘Animal Boarding Establishment’ is a Column 2 use under the Notes for 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 formed, mostly paved and deposited with a few converted containers and some construction materials.
- 1.2 According to the applicant, the proposed temporary animal boarding establishment (for operation of a dog kennel) involves four 1 to 2-storey structures with building height ranging from about 3.5m to 7.5m and a total floor area of about 576m² for animal boarding facilities, site office and toilet uses. About 72% of the Site (about 1,155m²) has been filled with concrete by not more than 0.2m in depth (from about +18.4mPD to not more than +18.6mPD) for site formation for erection of structures, parking and circulation purpose. The applicant states that five staff members will be stationed at the Site to support the operation of animal boarding establishment and two of them will stay overnight to handle complaints arising from the proposed use.

- 1.3 The operation hours will be between 9:00 a.m. and 6:00 p.m. daily except for overnight animal boarding. It will accommodate not more than 40 dogs at one time. A maximum of two dogs, with dog masks, would be allowed for outdoor activities within the Site at the same time during operation hours. All dogs will be kept inside the enclosed structures built with soundproofing and 24-hour mechanical ventilation and air-conditioning system after the operation hours. A 2.5m high solid fence wall would be erected along the site boundary to minimise potential noise nuisance. No public announcement system, whistle blowing or any form of audio amplification system will be used at the Site. Three private car parking spaces are proposed within the Site. The Site is accessible via a local track branching off from Kam Ho Road (**Plan A-1**). The site layout and paved ratio plans submitted by the applicant are at **Drawings A-1** and **A-2**.
- 1.4 The Site is the subject of five previous applications (No. A/YL-KTS/385, 414, 494, 597 and 698) for various open storage uses (detailed in paragraph 5 below).
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary information received **(Appendix I)** on 10.10.2022
 - (b) Further information (FI) received on 1.11.2022 **(Appendix Ia)**
 - (c) FI received on 28.11.2022 **(Appendix Ib)**
 - (d) FI received on 3.1.2023 **(Appendix Ic)**
 - (e) FI received on 23.2.2023 **(Appendix Id)**
- 1.6 On 9.12.2022, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application for two months as requested by the applicant for preparation of FI to address the departmental comments.

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 summarised as follows:

- (a) The proposed development is on a temporary basis which will not jeopardise the long-term planning intention of the “AGR” zone. The proposed use is not incompatible with the surrounding rural land uses.
- (b) The extent of land filling, which is for meeting the operation needs of the proposed animal boarding establishment, has been kept to the minimum. The applicant undertakes to reinstate the Site to an amenity area upon expiry of the planning approval.
- (c) The proposed development will not induce adverse traffic, environmental, drainage and landscape impacts to the surrounding areas.
- (d) The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by the Environmental Protection Department to minimise adverse environmental impacts

and nuisance to the surrounding areas, and the relevant Professional Persons Environmental Consultative Committee Practice Notes (ProPECC PN 5/93) for sewage treatment at the Site, i.e. the use of septic tank.

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 Pat Heung Rural Committee. 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 involved in five previous applications (No. A/YL-KTS/385, 414, 494, 597 and 698) for various temporary open storage uses which are not relevant to the current application.
- 5.2 Details of the previous applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

6. Similar Application

There is no similar application for temporary animal boarding establishment within the same “AGR” zone in the vicinity of the Site in the past five years.

7. The Site and Its Surrounding Areas (Plans A-1 to A-4)

7.1 The Site is:

- (a) formed, mostly paved and partly vacant and partly deposited with a few converted containers and some construction materials; and
- (b) accessible from Kam Ho Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its north and northwest are residential structures/dwellings (the nearest one at about 20m to the northwest), a site with works in progress, an open storage yard and grassland;

- (b) to its west and southwest are an open storage yard, a site with construction works in progress (which is the site approved under Application No. A/YL-KTS/928 for proposed temporary hobby farm, fishing ground, barbecue site and education centre with ancillary eating place uses) and grassland. To the further west are village houses within the “Village Type Development” zone of Ho Pui Tsuen;
- (c) to its south and east across Kam Ho Road and a nullah are active farmland and grassland; and
- (d) the Site falls within the Ho Po Site of Archaeological Interest (**Plan A-2**).

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 in the “AGR” zone.

9. Comments from Relevant Government Bureau/Departments

All government bureau/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 Comments Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory public inspection period, two public comments were received from Kadoorie Farm and Botanic Garden and an individual objecting to the application mainly on the grounds that the proposed development is not in line with the planning intention; the Site forms part of a previously rejected application for open storage use; and the extent of land filling is excessive.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary animal boarding establishment with ancillary facilities for a period of five years at the Site zoned “AGR” (**Plan A-1**) and associated filling of land at part of the Site (about 72%) by not more than 0.2m in depth for site formation of structures, parking and circulation space. The planning intention of the “AGR” zone 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. Whilst the development is not in line with the planning intention of the “AGR” zone, the Director of Agriculture, Fisheries and Conservation has no comment on the application from the agricultural development and nature conservation perspectives. It is considered that approval of the application on a temporary basis 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, the Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD) and Director of Environmental Protection (DEP) have no adverse comment from the drainage and environmental perspectives. An approval condition requiring the reinstatement of the Site to an amenity area is recommended.

- 11.2 The proposed use is considered not incompatible with the surrounding rural land uses comprising mainly village houses, open storage yards, active farmland, grassland, vacant land and the site approved for temporary hobby farm, fishing ground, barbecue site and education centre with ancillary eating place. The Chief Town Planner/Urban Design & Landscape of Planning Department considers that significant adverse landscape impact within the Site arising from the proposed use is not anticipated and has no objection to the application from landscape planning perspective. Although there are residential dwellings/structures in the vicinity (the nearest one at about 20m to its northwest) (**Plan A-2**), the applicant states that all dogs will be kept indoor at the enclosed structures equipped with sound-proofing materials, air conditioning and mechanical ventilation after the operation hours and no public announcement system will be used at the Site. A maximum of two dogs with dog masks will be allowed for outdoor activities at the same time. DEP has no adverse comment on the application.
- 11.3 Other relevant departments consulted including the Commissioner for Transport, CE/MN of DSD and Director of Fire Services have no adverse comment on the application. To minimise the possible environmental nuisances generated by the proposed 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 Sites’ issued by EPD, 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 as septic tank and soakaway system will be used at the Site.
- 11.4 Regarding the public comments objecting to the application, 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 3.3.2028. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 9:00 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 animal boarding establishment structures on the Site from 6:00 p.m. to 9:00 a.m. and no more than two dogs with dog masks are allowed for outdoor activities at the same time during the operation hours, 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, as proposed by the applicant, is allowed to be used on the Site 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 3.9.2023;
- (e) 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 3.12.2023;
- (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 implementation of the accepted 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 3.9.2023;
- (h) 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;
- (i) if any of the above planning condition (d), (e) or (g) 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
- (j) 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 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

Appendix I	Application form with supplementary information received on 10.10.2022
Appendix Ia	FI received on 1.11.2022
Appendix Ib	FI received on 28.11.2022
Appendix Ic	FI received on 3.1.2023
Appendix Id	FI received on 23.2.2023
Appendix II	Previous 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	Paved ratio plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a and A-4b	Site photos

**PLANNING DEPARTMENT
MARCH 2023**