

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/953

Applicant : Ms. LI Fu Yung

Site : Lot 1652 in D.D. 106, Kam Sheung Road, Pat Heung, Yuen Long

Site Area : About 1,081 m²

Lease : Block Government Lease (demised for agricultural use)

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

Zoning : “Agriculture” (“AGR”)

Application : Temporary Animal Boarding Establishment for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary animal boarding establishment for a period of 3 years. The Site falls within an area zoned “AGR” on the Kam Tin South 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). The Site is paved, fenced, erected with temporary structures, and currently used for the applied use without valid planning permission (**Plans A-2 to A-4c**).
- 1.2 According to the applicant, the development involves 4 one-storey structures (with building height of about 3.1m) and a total floor area of about 431.8m² for dog kennel, pet beauty room, staff resting room and ancillary storage uses. The operation hours are between 9:00 a.m. and 6:00 p.m. (except overnight animal boarding) daily including public holidays. The applicant states that the animal boarding establishment can accommodate not more than 40 animals at the Site. No more than four dogs with dog masks and collars will be allowed outdoor at the same time between 9:00 a.m. and 5:00 p.m., while all animals will be kept within the enclosed animal boarding structures built with sound proofing materials, and equipped with 24-hour air conditioning and mechanical ventilation between 5:00 p.m. and 9:00 a.m. No public announcement system, whistle

blowing, portable loud speaker or any form of audio amplification system will be used at the Site. Two staff members will be stationed at the Site to support the operation of the animal boarding establishment. No car parking space is provided within the Site and the Site is accessible to Kam Sheung Road via a footpath. The site layout plan submitted by the applicant is shown on **Drawing A-1**.

- 1.3 The Site was involved in four previous applications for the same use and submitted by the same applicant (details in paragraph 6 below). When compared with the last approved application (A/YL-KTS/807), the current application is the same in terms of the applied use, site area / boundary, 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 (**Appendix I**) (SI) received on 10.2.2023 and 18.2.2023
 - (b) Further Information (FI) received on 21.3.2023, (**Appendix Ia**) 22.3.2023 and 24.3.2023*
 - (c) FI received on 31.5.2023* (**Appendix Ib**)
- * accepted and exempted from publication and recounting requirements*
- 1.5 On 31.3.2023, 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.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form, SI and FIs at **Appendices I to Ib**. They can be summarised as follows:

- (a) The Site has been approved for temporary animal boarding establishment use since 2009 and the same temporary use / renewal of planning approval granted by the Committee were obtained in 2011, 2014 and 2019. Nevertheless, the applicant stated that she forgot to renew the planning permission due to oversight during the pandemic.
- (b) The facilities at the Site are well maintained. The development will not induce adverse traffic, environmental and drainage impacts to the surrounding area. No complaint has been received from nearby residents.

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 Applications**

5.1 The Site was involved in four previous applications (No. A/YL-KTS/480, 532, 633 and 807) (including renewal of planning approval) submitted by the same applicant for animal boarding establishment use. All the applications were approved with conditions by the Committee between December 2009 and March 2019 mainly on the considerations that approval of the application on a temporary basis would not frustrate the long-term planning intention; the development was not incompatible with the surrounding land uses; relevant departments consulted in general had no adverse comments on the applications and/or their technical concerns could be addressed by relevant approval conditions. However, the planning permission under Application No. A/YL-KTS/480 was revoked in December 2010 due to non-compliance with approval conditions.

5.2 Compared with the last approved application No. A/YL-KTS/807, the current application is submitted by the same applicant and is the same in terms of the applied use, site area / boundary, site layout and major development parameters. All the approval conditions (relating to submission and implementation of drainage and fire service installations proposals) are complied with and the planning permission lapsed on 23.3.2022.

5.3 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 four similar applications (No. A/YL-KTS/780, 789, 877 and 906), involving three sites, for various temporary animal boarding establishment uses within the same “AGR” zone in the vicinity of the Site in the past five years. All the applications were approved by the Committee between May 2018 and November 2021 on similar considerations as stated in paragraph 5.1 above. However, the planning permissions under Applications No. A/YL-KTS/780 and

789 were revoked in October 2020 and May 2019 respectively due to non-compliance with approval conditions.

- 6.2 Details of the 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-4c)

- 7.1 The Site is:

- (a) paved, fenced, erected with temporary structures, and currently used for the applied use without valid planning permission; and
- (b) accessible from Kam Sheung Road via a footpath.

- 7.2 The surrounding areas have the following characteristics:

- (a) to its east, south and west are active and fallow farmland, residential structures / dwellings (the nearest one at about 5m away to the south), grassland and vacant land; and
- (b) to its immediate north and northwest are residential structures/ dwellings. To its further north and northeast are open storage/ storage yards, a warehouse, a restaurant, plant nurseries and grassland.

8. Planning Intention

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.

9. Comments from Relevant Government Departments

All government 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 Comment Received During Statutory Publication Period

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

11. Planning Considerations and Assessments

- 11.1 The application is for temporary animal boarding establishment for a period of 3 years at the Site zoned “AGR” (**Plan A-1**). The planning intention of the “AGR” zone is intended to retain and safeguard good quality 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 applied use is not in line with the planning intention of the “AGR” zone, the Director of Agriculture, Fisheries and Conservation (DAFC) has no comment on the application from the agricultural perspective. It is considered that approval of the application on temporary basis for period of 3 years would not jeopardise the long-term planning intention of the “AGR” zone.
- 11.2 The Site is located in an area with rural landscape character comprising farmland, vacant land, temporary structures, village houses and scattered tree groups. The development is not incompatible with the surrounding landscape of the area and the Chief Town Planner / Urban Design and Landscape of the Planning Department considers that further significant adverse landscape impact arising from the applied use is not anticipated and has no objection to the application from landscape planning perspective. Although there are residential structures / dwellings in the vicinity of the Site, the applicant states that a maximum of four dogs with dog masks and collar will be allowed for outdoor activities at the same time between 9:00 a.m. and 5:00 p.m.; and all dogs will be kept inside the enclosed structures built with soundproofing materials and equipped with air conditioning and mechanical ventilation between 5:00 p.m. and 9:00 a.m., and no public announcement system will be used at the Site. There was no environmental complaint case concerning the Site received in the past three years, and the Director of Environmental Protection (DEP) has no objection to the application.
- 11.3 Relevant departments consulted, including the Commissioner for Transport, the Chief Engineer/Mainland North of the Drainage Services Department, the Director of Fire Services and DAFC, have 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. To minimise the possible environmental nuisances generated by the development, 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 DEP, and the relevant Practice Note for Professional Person PN 5/93 on “Drainage Plans subject to Comment by the Environmental Protection Department”.
- 11.4 The Site is the subject of four previous applications submitted by the same applicant for the same use, all of which were approved by the Committee between 2009 and 2019. All the approval conditions (relating to submission and implementation of drainage and fire service installations proposals) under the last application No. A/YL-KTS/807 have been complied with and the planning permission lapsed in March 2022 owing to the applicant’s negligence to seek

renewal of the planning approval of the Board during the pandemic. Besides, there are four similar applications approved by the Committee for similar temporary animal boarding establishment use within the same “AGR” zone in the vicinity of the Site for reasons as detailed in paragraph 6 above. Approval of 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 3 years until 28.7.2026. The following conditions of approval 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 5:00 p.m. to 9:00 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 existing drainage facilities on the site shall be maintained at all times during the planning approval period;
- (e) the submission of condition records of the existing drainage facilities implemented on the site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 28.10.2023;
- (f) the submission of a revised 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 28.1.2024;
- (g) in relation to (f) above, the implementation of the revised 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 28.4.2024;
- (h) 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; and

- (i) if any of the above planning condition (e), (f) or (g) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.
- (j) upon the 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:

the 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. 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 10.2.2023 and 18.2.2023
Appendix Ia	FI received on 21.3.2023, 22.3.2023 and 24.3.2023
Appendix Ib	FI received on 31.5.2023

Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Drawing A-1	Site layout plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a to A-4c	Site photos

**PLANNING DEPARTMENT
JULY 2023**