

APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/978

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| <u>Applicant</u> | : | Mr. Yeung Hoi Sau represented by Metro Planning and Development Company Limited |
| <u>Site</u> | : | Lots 706 (Part), 711 (Part), 712 (Part), 713 RP (Part), 716 (Part), 717 (Part) and 718 S.A (Part) in D.D.113 and Adjoining Government Land, Ma On Kong, Kam Tin, Yuen Long |
| <u>Site Area</u> | : | About 1,020 m ² (including Government Land of about 6m ² (0.6%)) |
| <u>Lease</u> | : | Block Government Lease (demised for agricultural use) |
| <u>Plan</u> | : | Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15 |
| <u>Zoning</u> | : | “Agriculture” (“AGR”) |
| <u>Application</u> | : | Renewal of Planning Approval for Temporary Animal Boarding Establishment (Dog Kennel) for a Period of 3 Years |

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission for temporary animal boarding establishment (dog kennel) for a period of 3 years at the application site (the Site) which 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 “AGR” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently paved, largely vacant with some temporary structures (**Plans A-2 to A-4**) and it is subject to planning permission under the previous application No. A/YL-KTS/868 for the same use. All the approval conditions for the previous application have been complied with and the planning permission is valid until 8.1.2024.
- 1.2 According to the applicant, the development involves three single-storey structures with building heights of not more than 4m, and a total floor area of about 320m² at the Site for temporary animal boarding establishment (dog kennel). The operation hours are from 9:00 a.m. to 7:00 p.m. daily. Four private car parking spaces will be provided within the Site. Not more than 8 dogs will be accommodated at the Site. All dogs will be kept within the enclosed structures with soundproofing materials and mechanical ventilation and air-conditioning system during operation hours and the dogs will leave the Site after the operation hours. No public

announcement system and blowing of whistle will be used at the Site. The Site is accessible from Kam Ho Road via a local access. The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 Compared with the previous application No. A/YL-KTS/868, the current application is submitted by a different applicant but with the same applied use, site area/boundary, layout and major development parameters.
- 1.4 In support of the application, the applicant has submitted the following document:
 - (a) Application form with supplementary information received (Appendix I) on 30.10.2023
 - (b) Further Information (FI) received on 18.12.2023* (Appendix Ia)

** 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, supplementary information and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) The proposed development is temporary in nature and it would not jeopardize the long-term planning intention of “AGR” zone. The scale of the proposed development is not incompatible with the surrounding environment. Similar applications were approved in the “AGR” zone within the same OZP.
- (b) There will be insignificant environmental and drainage impact. The dog kennel will be maintained in a sanitary condition and contain means for removal and disposal of animal and food waste, etc. to minimise infestation, contamination, odours and disease hazards.
- (c) The applicant will follow the relevant mitigation measures and requirements as shown in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”.
- (d) The applicant is waiting for issuance of Short Term Waiver (STW) to implement the proposal. The applicant agrees to take remedial action to address the unauthorised building works (UBWs) issues raised by the Lands Department (LandsD).

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

The applicant is not a “current land owner” of the private land portion 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 section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by posting site notice and sending notices to the Pat Heung Rural Committee. Detailed information would be deposited at

the meeting for Members' inspection. For the Government land portion, the "owner's consent/notification" requirements are not applicable.

4. Town Planning Board Guidelines

4.1 The Town Planning Board Guidelines for 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development' (TPB PG-No. 34D) are relevant to this application. The relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

The Site is currently not subject to any active planning enforcement action.

6. Previous Application

6.1 The Site is involved in one previous application (No. A/YL-KTS/868) for the same use as the current application which was approved by the Rural and New Town Planning Committee (the Committee) in January 2021, mainly on the considerations that the temporary approval would not frustrate the long-term planning intention; the proposed use was considered not incompatible with the surrounding land uses; and the relevant departments consulted generally had no adverse comment or their technical concerns could be addressed by relevant approval conditions. All the approval conditions are complied with and the planning permission is valid until 8.1.2024.

6.2 Compared with the last approved application (No. A/YL-KTS/868), the current application is the same in terms of site area/boundary, layout and major development parameters.

6.3 Details of the previous application are summarised in **Appendix III** and the location is shown on **Plan A-1**.

7. Similar Applications

7.1 There are two similar applications (No. A/YL-KTS/869 and 882) for temporary animal boarding establishment within the same "AGR" zone in the vicinity of the Site in the past 5 years. They were approved with conditions by the Committee in January 2021 and April 2021 respectively, on similar considerations as stated in paragraph 6.1 above.

7.2 Details of the similar applications are summarised in **Appendix III** and the locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) currently paved, largely vacant with some temporary structures; and
- (b) accessible from Kam Ho Road via a local access.

8.2 The surrounding areas are rural in character predominated with open storage/storage yards, vacant land, pigsty and cultivate agricultural land, and residential structures/dwellings.

9. 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.

10. Comments from Relevant Government Departments

10.1 Apart from the government department as set out in paragraph 10.2 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 IV and V** respectively.

10.2 The following government department has adverse comment on the application:

Land Administration

Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL of LandsD):

- (a) LandsD has adverse comment on the application;
- (b) the Site comprises Government Land and Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government;
- (c) no permission is given for occupation of Government Land (about 6m² subject to verification) included in the Site. Any occupation of Government Land without Government’s prior approval is not allowed;
- (d) LandsD has grave concerns given that there are UBWs and/or uses on Lot Nos. 717 and 718 S.A in D.D.113 which are already subject to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demanded by LandsD.

11. Public Comment Received During Statutory Publication Period (Appendix VI)

The application was published for public inspection. During the statutory publication period, one public comment was received from an individual objecting to the application mainly on the grounds that the application would cause adverse impacts on fire safety, drainage and hygiene.

12. Planning Considerations and Assessments

- 12.1 The application is for the renewal of planning permission for temporary animal boarding establishment (dog kennel) for a period of 3 years at the Site zoned “AGR”. The planning intention of the “AGR” zone is primarily 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. The proposed use 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 3 years can be tolerated.
- 12.2 The proposed use is not incompatible with the surrounding areas which is rural in character intermixed with residential structures/dwellings, pigsty, cultivated agricultural land and vacant land. Although there are residential structures/dwellings in the vicinity of the Site, the applicant stated that all dogs will be kept inside the enclosed structures with soundproofing material and equipped with mechanical ventilation and air conditioning. No public announcement system and whistle blowing will be used at the Site. All dogs will leave the Site after operation hours.
- 12.3 The application is generally in line with TPB PG-No. 34D in that all the approval conditions have been complied with; the renewal of planning approval period sought is of the same time frame as the previous approval; and there has been no material change in the planning circumstances since the granting of the previous approval.
- 12.4 Relevant departments consulted, including the Commissioner for Transport (C for T), the Director of Environmental Protection (DEP), the Chief Engineer/Mainland North of the Drainage Services Department (CE/MN of DSD) and the Director of Fire Services (D of FS) have no objection to or no adverse comment on the application. To address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 13.2 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 DEP to minimise any potential environmental nuisances.
- 12.5 DLO/YL of LandsD has adverse comments on the application in view of the existing UBWs at the Site. In this regard, the applicant states that remedial action to address the UBWs will be taken. Relevant advisory clause on need for

application to LandsD for regularisation of UBWs is recommended.

- 12.6 There is one approved previous application for the same use at the Site and two approved similar applications within the same “AGR” zone as stated in paragraphs 6.1 and 7.1 above. Approving the current application is in line with the Committee’s previous decisions.
- 12.7 Regarding the public comment as mentioned in paragraph 11, the departmental comments and planning assessments above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and taking into account the public comment in paragraph 11, the Planning Department has no objection to the renewal of planning approval for temporary animal boarding establishment (dog kennel) for a further period of 3 years.
- 13.2 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 and be renewed from 9.1.2024 to 8.1.2027. The following conditions of approval 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 animals shall be kept inside the enclosed structures with soundproofing materials, mechanical ventilation and air conditioning system, as proposed by the applicant, at all times during the planning approval period;
- (c) no public announcement system, portable loudspeaker, or any form of amplification system and whistle blowing is allowed to be used on the site at any time 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 the record of the existing drainage facilities on the site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 9.4.2024;
- (f) the submission of fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 9.7.2024;
- (g) in relation to (e) above, the implementation of fire service installations proposal within **9** months from the date of commencement of the renewed

planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 9.10.2024;

- (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.
- (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 on the same date be revoked without further notice.

[The above approval conditions are the same as those under the last approved planning Application No. A/YL-KTS/868, except deletion/revision to the conditions on traffic, and drainage aspects based on the latest comments from C for T and CE/MN of DSD.]

Advisory clauses

The recommended advisory clauses are at **Appendix V**.

13.3 There is no strong reason to recommend rejection of the renewal application.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning approval.
- 14.2 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.
- 14.3 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.

15. Attachments

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| Appendix I | Application form with supplementary information received on 30.10.2023 |
| Appendix Ia | FI received on 18.12.2023 |
| Appendix II | Relevant extract of TPB PG-No. 34D |
| Appendix III | Previous and similar applications |
| Appendix IV | Government departments' general comments |
| Appendix V | Recommended advisory clauses |

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| Appendix VI | Public Comment |
| Drawing A-1 | Site layout 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
DECEMBER 2023**