

RNTPC Paper No. A/YL-NTM/435
For Consideration by
the Rural and New Town
Planning Committee
on 10.6.2022

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/435

Applicant : YAU Wai Keung represented by Lanbase Surveyors Limited

Site : Lot 607 S.A (Part) in D.D. 104 and adjoining Government Land (GL), Ngau Tam Mei, Yuen Long

Site Area : About 1,067 m² (including GL of 191m²)

Land Status : Block Government Lease (demised for agricultural use)

Plan : Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12

Zoning : “Recreation” (“REC”)

Application : Proposed Temporary Animal Boarding Establishment (Dog Breeding Ground) 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 (dog breeding ground) for a period of 3 years. The Site falls within an area zoned “REC” on the approved Ngau Tam Mei OZP No. S/YL-NTM/12 (**Plan A-1**). According to the Notes of the OZP, ‘Animal Boarding Establishment’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by temporary structures and used as the applied use without planning permission.
- 1.2 According to the applicant, a new layout is proposed at the Site for the applied use. The existing one-storey structure at the Site (**Plans A-4a to A-4b**) will be demolished and replaced by 6 one-storey structures (not more than 4m in height) with a total floor area of about 434.68 m² for dog breeding area, rest room and store room as well as a solid fence wall of 2.2m in height along the site boundary (**Drawing A-1**). The operation hours (with staff operation) are from 9am to 9pm daily including public holidays, while all the dogs would stay overnight at the Site after operation hours. All dogs would be kept inside the fully-enclosed structures built with soundproofing materials (with surface density of not less than 14kg/m²) and equipped with ventilation and air-conditioning system. The

Site is open for visitors (mainly wholesale buyers) from 10am to 6pm on Mondays to Fridays only. The applicant states that no more than 80 dogs will be kept on site. No public announcement system, whistle blowing, portable loudspeaker and/or any form of audio amplification system will be used at the Site. The Site is accessible to Chun Shin Road via a local access road (**Plan A-1**). No parking space will be provided at the Site.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 21.1.2022 and clarification letter received on 26.1.2022 (**Appendix I**)
 - (b) Supplementary planning statement (**Appendix Ia**)
 - (c) Further Information (FI) received on 19.4.2022 providing responses to departmental comments * (**Appendix Ib**)
 - (d) FI received on 27.5.2022 providing responses to departmental comments * (**Appendix Ic**)
 - (e) FI received on 8.6.2022 providing responses to departmental comments * (**Appendix Id**)

*Remark: * accepted and exempted from publication and recounting requirements*

- 1.4 On 18.3.2022, the Rural and New Town Planning Committee (the Committee) decided to defer decision on the application for a period of 2 months as requested by the applicant pending submission of FIs to address departmental comments. On 19.4.2022, 27.5.2022 and 8.6.2022, the applicant submitted FIs, and the application is 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 **Appendices I, Ia to Id**. They can be summarised as follows:

- (a) The application is on a temporary basis only which will not jeopardise the long term planning intention of the “REC” zone.
- (b) The dog breeding ground is compatible with the surrounding areas which are occupied by agricultural and open storage uses. The applicant has proposed noise mitigation measures (**Drawing A-1**) including i) a solid fence wall made of brick/concrete of 2.2m in height along the site boundary; ii) fully-enclosed structures built with soundproofing materials with surface density of not less than 14kg/m² (steel claddings consist of three corrugated steel sheets of 1.9 mm thick each); iii) all dogs will be securely kept inside the enclosed structures and will not be allowed to move around in the open area within the Site. With the proposed noise mitigation measures, there will be no direct line-of-sight to the nearby noise sensitive receivers (i.e. village houses / residential dwellings which are mostly single-storey) and thus potential noise nuisance could be minimised. The current structures at the Site will be demolished.

- (c) To fulfil the Code of Practice for Dog Breeders (Category B) published by Agricultural, Fisheries and Conservation Department (AFCD), dogs are required to have exercise time of one hour twice a day in the exercise area. The exercise area will be within the fully-enclosed structure at the eastern portion of the Site which is located farthest away from the noise sensitive receivers (**Drawing A-1**), except the house to the northeast of the Site (i.e. Lot 605 SA in D,D, 104) (**Plan A-2**) which is the applicant's residence.
- (d) There will be no more than two staff at the Site and there will be no residence site staff. No vehicular access and parking or loading/unloading spaces will be provided. The wastewater at the Site will be collected by septic tank/soakaway pit. No adverse traffic and drainage impacts are anticipated.
- (e) The Site has been offered a Dog Breeder Licence (Category B) by AFCD, hence sympathetic consideration could be given to the applied use.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is not the "current land owner" and 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. 31A) by posting site notice and sending notice to the San Tin Rural Committee. Detailed information would be deposited at the meeting for Members' inspection. The remaining part of the Site is GL, and the "owner's consent/notification" requirements are not applicable.

4. Background

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

5. Previous Application

There is no previous application at the Site.

6. Similar Applications

There is no similar application for animal boarding establishment within the "REC" zone on the OZP.

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

7.1 The Site:

- (a) is accessible to Chun Shin Road via local access road; and

- (b) is currently occupied by temporary structures.

7.2 The surrounding areas mainly comprise residential dwellings, vacant land, some storage/open storage uses;

- (a) to its immediate north is residential dwelling/storage; to its further north are residential dwellings, grass land, basketball court, public vehicle park and container trailers park;
- (b) to its east are a house (i.e. applicant's house at Lot 605 SA in D.D. 104) and a playground; to the further east are a vacant school and residential dwellings;
- (c) to its south are an open storage yard, storage, vacant land, grassland, and residential dwellings; and
- (d) to its west are residential dwellings/storages, vacant land, and an open storage yard.

8. Planning Intention

The planning intention of the “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

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 II and III** respectively.

10. Public Comment Received During Statutory Publication Period

On 28.1.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 18.2.2022, one objecting public comment was received from an individual (**Appendix IV**) raising concerns that the Site is not an appropriate location to breed animals as the Site is close to playing fields and it is uncertain if the Site is connected to public drainage or sewerage system.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary animal boarding establishment (dog breeding) for a period of 3 years at the Site zoned “REC”. The planning intention of the “REC” zone is primarily for recreational developments for the use of the general public, and encourages the development of active and/or passive recreation and tourism/eco-tourism. While the temporary animal boarding establishment is not

in line with the planning intention of the “REC” zone, there is no known long-term development at the Site. Approving the application on a temporary basis would not frustrate the long-term planning intention of the Site.

- 11.2 The development is considered not incompatible with the surrounding land uses which mainly comprise residential dwellings, storages/open storages and vacant land. Although there are residential dwellings to its immediate surrounding (including one of which being the applicant’s house), the applicant has submitted a noise mitigation measure proposal (**Drawing A-1**) and provide details on the proposed noise mitigation measures, including erection of a solid fence wall of 2.2m in height along the site boundary; all dogs will be kept inside the fully-enclosed structures; the enclosed structures will be built with soundproofing materials and equipped with ventilation and air-conditioning system; and no public announcement system and whistle blowing will be used at the Site. DEP has no objection to the application and the submitted noise mitigation proposal.
- 11.3 Relevant departments, including C for T, CE/MN of DSD, D of FS and CTP/UD&L of PlanD, have no adverse comments from traffic, drainage, fire safety and landscape perspectives. To minimise any possible environmental nuisance, approval conditions restricting the operation hours and outdoor animal activities and prohibiting the use of public announcement system and whistle blowing are recommended in paragraph 12.2 below. Technical requirements of C for T, CE/MN of DSD and D of FS can also be addressed by imposing the approval conditions. The applicant will also be advised to follow the requirements as stated in the ProPECC PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” for the design and construction of the septic tank and soakaway system of which should be duly certified by an Authorized Person as well as the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site” to minimise any potential environmental impacts.
- 11.4 Regarding the public comment received during the statutory public inspection period as stated in paragraph 10 above, relevant departments’ comments as well as the planning assessments and considerations stated above are relevant.

12. **Planning Department’s Views**

- 12.1 Based on the assessment in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, 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 10.6.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 9:00 p.m. and 9:00 a.m. (except for overnight animal boarding), 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 on the Site, as proposed by the applicant, at all times during the planning approval period;
- (c) no public announcement system, portable loudspeaker, any form of audio amplification system, or whistle blowing is allowed to be used on the Site at any time during the planning approval period;
- (d) the provision of a 2.2m high solid fence wall along the site boundary within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 10.12.2022;
- (e) the submission of 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 10.12.2022;
- (f) in relation to (e) above, the implementation of 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 10.3.2023;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) the submission of 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 10.12.2022;
- (i) in relation to (h) above, the implementation of 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 10.3.2023;
- (j) if any of the above planning conditions (a), (b), (c) or (g) 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
- (k) if any of the above planning conditions (d), (e), (f), (h) or (i) 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 at **Appendix III**.

12.3 Alternatively, should the Committee decide to reject the application, the

following reason for rejection is suggested for Members' consideration:

the proposed development is not in line with the planning intention of the "REC" zone, which is primarily for recreational developments for the use of the general public and encourages the development of active and/or passive recreation and tourism/eco-tourism. No sufficient 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 received on 21.1.2022 and clarification letter received on 26.1.2022
Appendix Ia	Supplementary planning statement
Appendix Ib	FI received on 19.4.2022
Appendix Ic	FI received on 27.5.2022
Appendix Id	FI received on 8.6.2022
Appendix II	Government departments' general comments
Appendix III	Recommended Advisory Clauses
Appendix IV	Public comment
Drawing A-1	Layout plan with proposed noise mitigation measures
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2022**