

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/512

- Applicant** : Mr. HE Yazi represented by Metro Planning and Development Company Limited
- Site** : Lot 1284 in D.D. 118, Tai Shu Ha Road West, Yuen Long, New Territories
- Site Area** : 482 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/17
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Animal Boarding Establishment (Dog Kennel) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary animal boarding establishment (dog kennel) for a period of 3 years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for the “AGR” zone, ‘Animal Boarding Establishment’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently fenced, vacant and unpaved (**Plans A-2** and **A-4**), and does not involve in any previous application.
- 1.2 The proposal is for day-care animal boarding services operated by the applicant. Not more than 6 dogs will be kept in the proposed enclosed structures equipped with soundproofing materials, mechanical ventilation and air-conditioning system. The applicant will transfer the dogs to the Site and take care of them during operation hours (from 9:00 a.m. to 6:00 p.m. daily). The dogs will be transferred off-site by the applicant after operation hours on a daily basis. No dogs and staff will stay at the Site outside the operation hours. Dog washing facility will be provided at the Site. Visit to the Site is on booking basis and a maximum of two visitors can visit the Site at any one time. The applicant pledges that no site formation, hard paving and usage of public announcement system will take place at the Site. Plans showing the vehicular access leading to the Site, site layout and drainage proposal submitted by the applicant are at **Drawings A-1** to

A-3 respectively.

1.3 The major development parameters of the application are summarised as follows:

Site Area	About 482 m ²
Total Floor Area (Non-domestic)	About 225 m ²
No. and Height of Structures	3 • for dog kennel, site office and toilet (4m, 1 storey)
No. of Parking Spaces	3 (2.5m x 5m each for private cars)
Operation Hours	9:00 a.m. to 6:00 p.m. daily

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with plans and annexes received on 17.12.2020 (**Appendix I**)
- (b) Supplementary Information received on 23.12.2020 clarifying the proposed operation (**Appendix Ia**)
- (c) Further Information (FI) received on 18.1.2021 providing a revised vehicular access plan and clarifying the proposed operation (**Appendix Ib**)
- (d) FI received on 4.5.2021 responding to departmental comments (**Appendix Ic**)
- (e) FI received on 5.5.2021 responding to departmental comments (**Appendix Id**)
- (f) FI received on 10.6.2021 clarifying the proposed operation (**Appendix Ie**)
[(c) to (f) exempted from publication and recounting requirements]

1.5 On 5.2.2021, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer a decision on the application for a period of two months, as requested by the applicant. Since 4.5.2021, FI have been received and the application is submitted to the Committee for consideration 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 FI (**Appendices I to Ie**). They can be summarised as follows:

- (a) The proposal is temporary in nature and would not jeopardise the long-term planning intention of the “AGR” zone. The nature and the scale of the proposed use is not incompatible with the surrounding environment. Similar applications have

been approved in other “AGR” zones in Yuen Long.

- (b) The dog kennel will be maintained in a hygienic condition with proper excreta and waste disposal as well as regular pest control. Adequate supplies of potable water will be provided at the Site. Relevant licence(s) from the Agriculture, Fisheries and Conservation Department (AFCD) will be applied for upon approval of the current application.
- (c) The applicant will follow the revised ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ (Code of Practice). Should the application be approved, a discharge licence under the Water Pollution Control Ordinance would be obtained for effluent discharges. All the drainage facilities at the Site will be provided and maintained at the applicant’s own expense. The proposed development will not create significant adverse traffic, environmental and drainage impacts to the surrounding areas. Adequate mitigation measures will be provided upon approval of the application.

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 planning enforcement action.

5. Previous Application

There is no previous planning application concerning the Site.

6. Similar Application

There is no similar application within the subject “AGR” zone on the OZP.

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

7.1 The Site is:

- (a) accessible from Tai Shu Ha Road West to its east via a local track (**Plans A-2 and A-3**);
- (b) fenced off; and
- (c) currently unpaved and vacant (**Plans A-2 and A-4**).

7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) predominantly rural in nature with mainly agricultural land and shrubland intermixed with plant nurseries, graves, an orchard, a warehouse, an open storage yard and vacant land/structures;
- (b) to the south of the Site is an area zoned “Conservation Area” predominated by agricultural land and graves on the subject OZP; and
- (c) the warehouse and open storage yard in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

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

- 9.1 The following government departments have been consulted and their views on the application and the public comments, where relevant, are summarised as follows:

Land Administration

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

- (a) The Site comprises an Old Schedule Agricultural Lot 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.
- (b) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to her office to permit the structures to be erected or to regularise any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by her department acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by her department.

Traffic

- 9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) The land status of the access road/path/track leading to the Site from Tai Shu Ha Road West shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (c) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) If the proposed access arrangement is agreed by Transport Department (TD), a proper road connection or run-in/out should be constructed to the satisfaction of TD and his department.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) His department shall not be responsible for the maintenance of any access connecting the Site and Tai Shu Ha Road West.

Environment

9.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) He has no objection from environmental planning perspective.
- (b) Should the application be approved, approval conditions requiring all dogs to be kept inside the enclosed structures fitted with soundproofing materials and mechanical ventilation and air-conditioning systems and no public announcement system, portable loudspeaker or any form of audio amplification system and whistle blowing is allowed at the site at any time should be stipulated.
- (c) Moreover, the following advisory clauses are also suggested:
 - (i) to follow the relevant mitigation measures and requirements in the revised Code of Practice to minimise any potential environmental nuisance;
 - (ii) to meet all statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures; and

- (iii) to provide suitable treatment facilities to handle sewage arising from the Site. If septic tank and soakaway system will be used in case of unavailability of public sewer, its design and construction should follow the requirements of his department's Professional Persons Environmental Consultative Committee Practice Note No. 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" including percolation test.

Agriculture, Nature Conservation and Animal Management

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

- (a) She does not support the application from agricultural point of view.
- (b) The Site falls within the "AGR" zone and is currently an enclosed area. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access are also available. The Site possesses potential for agricultural rehabilitation and can be used for agricultural activities such as greenhouses and plant nurseries, etc.
- (c) The Site does not associate with any licence granted by her department, nor has any application regarding the Site been received. The applicant should be advised that under the Public Health (Animals) (Boarding Establishment) Regulations (Cap. 139I), any person who provides food and accommodation for animals in return for a fee paid by the owner must apply for a Boarding Establishment Licence from her department. The applicant should also be reminded that the establishment and ancillary facilities which is licensed under Cap. 139I must always fulfil the criteria listed in the Regulations. On the other hand, the dogs kept by the applicant should also be properly licensed as in accordance with Rabies Ordinance (Cap. 421) and he is reminded to observe Prevention of Cruelty to Animals Ordinance (Cap. 169) at all times.

Landscape

9.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) She has no objection to the application from landscape planning perspective.
- (b) According to the aerial photo (**Plan A-3**), the Site is an unpaved vacant land with no existing tree observed. The Site is located in an area of miscellaneous rural fringe landscape character predominated by graveyards, abandoned and active farmlands, tree

clusters, temporary structures and warehouses. The proposed development is considered not incompatible with the landscape character of the surrounding area. Significant adverse landscape impact on existing landscape resources and change in landscape character of the surrounding area arising from the proposed development are not envisaged.

Drainage

9.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) He has no adverse comment on the submitted drainage proposal (**Drawing A-3**). Nevertheless, the applicant should be reminded of the detailed comments at **Appendix III**.
- (c) Should the Board consider the application acceptable from the planning point of view, approval conditions requiring the implementation and maintenance of the agreed drainage proposal to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

9.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should be reminded of the detailed comments at **Appendix III**.

Building Matters

9.1.9 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

The applicant should be reminded of the detailed comments at **Appendix III**.

District Officer's Comments

9.1.10 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

Her office has not received any comment from the village representatives in the vicinity regarding the application.

9.2 The following government departments have no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD); and
- (c) Commissioner of Police (C of P).

10. Public Comments Received During the Statutory Publication Period

On 29.12.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments were received from an individual (**Appendix II-1**), Kadoorie Farm and Botanic Garden Corporation (**Appendix II-2**) and The Hong Kong Bird Watching Society (HKBWS) (**Appendix II-3**) objecting to the application mainly on the grounds that the proposed use is not in line with the planning intention of the “AGR” zone and the Site should be put to agricultural use; no previous approval has been granted to the Site and approval of the application would set an undesirable precedent; adverse sewerage impacts and land contaminations are expected; approval of the application without sufficient information on the operator’s background and proposed operation would give raise to concerns over animal welfare. HKBWS further opined that appropriate justifications should be given if the application is not recommended for rejection.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary animal boarding establishment (dog kennel) for a period of three years at the Site zoned “AGR” on the OZP. 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 entirely in line with the planning intention of the “AGR” zone. DAFC does not support the application from the agriculture point of view as the Site possesses potential for agricultural rehabilitation. Nevertheless, in view of the scale and nature of the proposed use, approval of the application on a temporary basis for three years would not frustrate the long-term planning intention of the “AGR” zone.
- 11.2 The surrounding area is rural fringe in character with mainly agricultural land, shrubland and vacant land (**Plan A-2**). The proposal is generally not incompatible with the surrounding uses and the rural character of the area.
- 11.3 There is no objection to or adverse comment on the application from concerned government departments, including C for T, DEP, CE/MN, DSD and CTP/UD&L, PlanD. The proposed use would unlikely create significant adverse traffic, environmental, drainage and landscape impacts on the surrounding areas. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to minimise any potential environmental nuisances or to address the technical

requirements of other concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will be advised to follow the revised Code of Practice to minimise any potential environmental impact on the surrounding areas, to meet all statutory requirements under relevant pollution control ordinances, to provide suitable sewage treatment facilities and to apply for relevant licence(s) where appropriate.

- 11.4 There is no previous application concerning the Site or similar application within the subject “AGR” zone.
- 11.5 There were three public comments objecting to the application received during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant. Regarding the public concern on animal welfare (**Appendix II-1**), the future proprietor is reminded to observe the Prevention of Cruelty to Animals Ordinance (Cap. 169) at all times.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments as summarised 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 25.6.2024. 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., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) only private cars as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) no site formation and hard paving, as proposed by the applicant, are allowed on the Site during the planning approval period;
- (e) all dogs shall be kept inside enclosed structures with soundproofing materials, mechanical ventilation and air-conditioning system, as proposed by the applicant, at all times during the planning approval period;
- (f) no usage of public announcement system, portable loudspeaker or any form

of audio amplification system and whistle blowing are allowed on the Site at any time during the planning approval period;

- (g) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of a run-in/out proposal within **6** months from the date of planning approval to the satisfaction of the Commissioner for Transport and Director of Highways or of the Town Planning Board by 25.12.2021;
- (i) in relation to (h) above, the implementation of the run-in/out proposal within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport and Director of Highways or of the Town Planning Board by 25.3.2022;
- (j) the implementation of the accepted 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 25.12.2021;
- (k) in relation to (j) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (l) 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 25.12.2021;
- (m) in relation to (l) 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 25.3.2022;
- (n) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) or (k) 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;
- (o) if any of the above planning conditions (h), (i), (j), (l) and (m) 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
- (p) 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 III**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Member's reference:

the proposed use 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, and 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 to justify a departure from 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 Plans and Annexes received on 17.12.2020
Appendix Ia	Supplementary Information received on 23.12.2020
Appendix Ib	FI received on 18.1.2021
Appendix Ic	FI received on 4.5.2021
Appendix Id	FI received on 5.5.2021
Appendix Ie	FI received on 10.6.2021
Appendices II-1 to II-3	Public Comments
Appendix III	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Drainage Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo

Plan A-4

Site Photos

**PLANNING DEPARTMENT
JUNE 2021**