

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-TT/525**

- Applicant** : Mr. PANG Chun Yip represented by Metro Planning and Development Company Limited
- Site** : Lots 1295 S.B RP (Part) and 1436 in D.D. 118, Tai Shu Ha Road West, Yuen Long, New Territories
- Site Area** : 560 m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/18
- 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 partly fenced-off, overgrown and vacant (**Plans A-2 and A-4**).
- 1.2 Part of the Site involves one previous application for a different use (i.e. temporary open storage of marble for a period of 3 years) in 2000.
- 1.3 The proposed day-care animal boarding service will be operated by the applicant. Not more than 9 dogs will be kept in the proposed enclosed structures equipped with soundproofing materials, mechanical ventilation and air-conditioning system and there will be no outdoor activity for the dogs. 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. Visit to the Site will be on booking basis and a maximum of four visitors are allowed at any one time. The applicant pledges that no site

formation, hard paving and usage of public announcement system, portable loudspeaker or any form of audio amplification system and whistle blowing will take place at the Site. Furthermore, only private cars will access the Site. Plans showing the site layout and drainage proposal submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

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

<b>Site Area</b>	About 560 m <sup>2</sup>
<b>Total Floor Area (non-domestic)</b>	About 249 m <sup>2</sup>
<b>No. and Height of Structures</b>	3 • for dog kennel, site office and toilet (4m, 1 storey)
<b>No. of Parking Spaces</b>	3 (2.5m x 5m each for private cars)
<b>No. of Loading/Unloading Spaces</b>	Nil
<b>Operation Hours</b>	9:00 a.m. to 6:00 p.m. daily

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

- (a) Application Form with plans and annexes received on 17.8.2021 **(Appendix I)**
- (b) Further Information (FI) received on 21.9.2021 **(Appendix Ia)**
- (c) FI received on 5.10.2021 **(Appendix Ib)**  
*[(b) and (c) 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 and FIs (**Appendices I to Ib**). They can be summarised as follows:

- (a) The temporary proposal would not jeopardise the long-term planning intention of the “AGR” zone. The nature and scale of the proposed use is not incompatible with the surrounding environment. Similar applications have been approved in the subject “AGR” zone and other areas of 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. The dog kennel will be designed to restrict the entrance of other animals. Relevant licence from the Agriculture, Fisheries and Conservation Department 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.

**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 Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending the notice to Shap Pat Heung Rural Committee through registered post. 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**

Part of the Site involves one previous application (No. A/YL-TT/90) for a different use (i.e. temporary open storage of marble for a period of 3 years) not relevant to the current application. Details of the application are summarised in **Appendix II** and the boundary of the site is shown on **Plan A-1**.

**6. Similar Application**

There was one similar application (No. A/YL-TT/512) for the same use as the current application within the subject “AGR” zone, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board for a period of 3 years in 2021, mainly on the considerations that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “AGR” zone; the proposal was not entirely incompatible with the surrounding areas; and departmental concerns could be addressed by imposing approval conditions. Details of the application are summarised in **Appendix III** and the location of the site is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) abutting Tai Shu Ha Road West to its west (**Plans A-2 and A-3**);
- (b) partly fenced-off; and
- (c) currently overgrown 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, shrubland and vacant land/structures intermixed with a residential structure cum storage, plant nurseries, graves, a workshop, an orchard and open storage/storage yards;
- (b) the aforesaid residential structure cum storage is located to the immediate northeast of the Site;
- (c) to the further southwest of the Site is an area zoned “Conservation Area” on the subject OZP; and
- (d) the open storage/storage yards and workshop 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 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.
- (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/ run-in/out 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) Adequate drainage measures should be provided to prevent surface water running from the Site to nearby roads and drains.
- (b) If the proposed run-in/out is approved by Transport Department, the applicant shall construct the run-in/out according to the latest version of HyD Standard Drawings No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.

### **Environment**

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

- (a) He has no objection to the application provided that the proposed facilities will be properly designed and maintained to minimise any potential environmental nuisance. Should the application be approved by the Board, the following approval conditions should be stipulated.
  - (i) The animals shall be kept inside the enclosed structures between 6:00 p.m. and 9:00 a.m. on the Site, as proposed by the applicant, during the planning approval period.
  - (ii) No whistle blowing, public announcement system, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site, as proposed by the applicant.
- (b) Moreover, the applicant should note the detailed comments at **Appendix V**.

### **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 abandoned area. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site possesses potential for agricultural rehabilitation and can be used for agricultural activities such as open-field cultivation, greenhouses, 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 note the detailed comments on licensing aspect at **Appendix V**.

### **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**) and site photos (**Plan A-4**), the Site is a vacant land and covered by self-seeded vegetation and weedy tree species *Leucaena leucocephala* (銀合歡). 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 entirely 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.
  - (c) The applicant should be reminded of the detailed comments at **Appendix V**.

### **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-2**). Nevertheless, the applicant should be reminded of the detailed comments at **Appendix V**.
- (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 V**.

### **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 V**.

### **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 24.8.2021, the application was published for public inspection. During the first three

weeks of the statutory public inspection period, three public comments were received from a villager of Nam Hang Tsuen, Kadoorie Farm and Botanic Garden Corporation (KFBGC) and an individual. The villager of Nam Hang Tsuen and KFBGC opine that the proposal would exacerbate the traffic problems of Tai Shu Ha Road West; generate environmental and sewerage impacts; and approval of the application would encourage others to convert their agricultural land to other uses (**Appendices IV-1 and IV-2**). The individual objects to the application mainly on the grounds that most of the Site would be paved; the Site should be put to agricultural use; no previous approval has been granted to the Site; land contamination is expected; approval of the application without sufficient information on the operator's background and proposed operation would give rise to concerns over animal welfare; and there is little demand for the proposed use in the area (**Appendix IV-3**).

## **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/structures (**Plan A-2**). The proposal is generally not incompatible with the surrounding uses and the rural character of the area.
- 11.3 Apart from DAFC, 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 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 Code of Practice to minimise any potential environmental impact on the surrounding areas, to meet the statutory requirements under relevant pollution control ordinances, to provide suitable sewage treatment facilities and to apply for relevant licence(s) where appropriate.
- 11.4 Although there was one previous application rejected by the Committee, it was for a different use (i.e. temporary open storage of marble for a period of 3 years) not relevant to the current application. Given that one similar application within the subject "AGR" zone has been approved, approval of the current application is generally in line with the Committee's previous decision.



- 11.5 There were three public comments providing views/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 IV-3**), 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 15.10.2024. 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) 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;
- (e) 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;
- (f) the provision of boundary fencing on the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 15.4.2022;
- (g) 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 15.4.2022;
- (h) in relation to (g) 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 15.7.2022;

- (i) 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 15.4.2022;
- (j) in relation to (i) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (k) 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 15.4.2022;
- (l) in relation to (k) 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 15.7.2022;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e) or (j) 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;
- (n) if any of the above planning conditions (f), (g), (h), (i), (k) or (l) 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
- (o) 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 V**.

- 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 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**

<b>Appendix I</b>	Application Form with Plans and Annexes received on 17.8.2021
<b>Appendix Ia</b>	FI received on 21.9.2021
<b>Appendix Ib</b>	FI received on 5.10.2021
<b>Appendix II</b>	Previous Application covering the Site
<b>Appendix III</b>	Similar Application within the Subject “AGR” Zone on the OZP
<b>Appendices IV-1 to IV-3</b>	Public Comments received during the Statutory Publication Period
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Site Layout Plan
<b>Drawing A-2</b>	Drainage Proposal
<b>Plan A-1</b>	Location Plan with Previous and Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
OCTOBER 2021**