

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/551

- Applicant** : Mr. XU Sen Lin represented by Metro Planning and Development Company Limited
- Site** : Lots 1454 S.B ss.1 and 1454 S.B RP in D.D. 118, Tai Shu Ha Road West, Yuen Long, New Territories
- Site Area** : 410 m² (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 and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary animal boarding establishment (dog kennel) for a period of 3 years and filling of land at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for the “AGR” zone, ‘Animal Boarding Establishment’ and filling of land require planning permission from the Town Planning Board (the Board). The Site is currently paved with soil, fenced off and vacant (**Plans A-2 and A-4**). There is no previous application involving the Site.
- 1.2 The Site is accessible from Tai Shu Ha Road West via a local track (**Drawing A-1**). The proposed filling of land covers the entire site with 0.2m thick concrete. The proposed day-care animal boarding service will be operated by the applicant. Not more than eight 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 back to their owners after operation hours. 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 two visitors are allowed at any one time. The applicant

pledges that no public announcement system will be used at the Site. Plans showing the vehicular access leading to the Site and run-in/out proposal, site layout, extent of paving of the Site and drainage proposal submitted by the applicant are at **Drawings A-1 to A-4** respectively.

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

Site Area	About 410 m ²
Total Floor Area (non-domestic)	Not more than 210 m ²
Extent of Filling of Land	About 410m ² (i.e. the entire Site, at about 0.2m in depth)
No. and Height of Structures	3 for dog kennel, site office and toilet (4m, 1 storey)
No. of Parking Spaces	3 for private cars (2.5m x 5m each)
No. of Loading/Unloading Space	Nil
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 11.5.2022 **(Appendix I)**
- (b) Further Information (FI) received on 14.6.2022 **(Appendix Ia)**
- (c) FI received on 16.6.2022 **(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 proposed use is not incompatible with the surrounding environment. Similar applications have been approved in the subject “AGR” zone.
- (b) The Site is undulated and land filling is required for smooth internal circulation within the Site.
- (c) The dog kennel will be maintained in a sanitary 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.
- (d) 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 any planning enforcement action.

5. Previous Application

There is no previous application concerning the Site.

6. Similar Applications

There are two similar applications (No. A/YL-TT/512 and 525) for temporary animal boarding establishment (dog kennel) within the subject "AGR" zone, which were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board each 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 proposals were generally not incompatible with the surrounding areas; and departmental concerns could be addressed by imposing approval conditions. Details of the applications are summarised in **Appendix II** and the location of the sites are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) accessible via a local track leading from Tai Shu Ha Road West to its east (**Plans A-2 and A-3**);
- (b) paved with soil and fenced off; and

- (c) 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 unused land intermixed with parking of vehicles, a warehouse, an open storage yard, plant nurseries, graves, vegetated land, an orchard and vacant land/structures;
- (b) to the southwest of the Site is unused land with some graves within an area zoned “Conservation Area” on the subject OZP; and
- (c) the open storage yard, warehouse and parking of vehicles in the vicinity are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

8. Planning Intention

- 8.1 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.
- 8.2 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities within the “AGR” zone.

9. Comments from Relevant Government Departments

- 9.1 Apart from the government department as set out in paragraph 9.2 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 III and IV** respectively.
- 9.2 The following government department does not support the application.

Agriculture and Animal Management

- 9.2.1 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):
 - (a) He does not support the application from agricultural point of view.
 - (b) The Site falls within the “AGR” zone and is currently vacant. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available in the vicinity of the Site. The Site possesses potential

for agricultural rehabilitation and can be used for agricultural activities such as open-field cultivation, 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. Should the application be approved, the applicant should note the detailed comments on licensing aspect in the Recommended Advisory Clauses at **Appendix IV**.

10. Public Comments Received During the Statutory Publication Period

On 20.5.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received from an individual objecting to the application mainly on the grounds that the Site should be put to agricultural use; the proposal will generate adverse sewerage impacts and land contamination; and approval of the application would give rise to concerns over animal welfare. The individual also urges the Board to question the connection between the current proposal and a similar application in the vicinity, as well as the demand and supply for animal boarding establishments in the area (**Appendix V**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary animal boarding establishment (dog kennel) for a period of three years and filling of land 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. The proposal involves filling of land of the entire site with 0.2m thick concrete. Filling of land within “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) and Director of Environmental Protection (DEP) have no adverse comment from drainage and environmental perspectives.
- 11.2 The surrounding area is rural fringe in character with mainly agricultural land and unused land (**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 Commissioner for Transport, DEP, CE/MN, DSD and Chief Town Planner/Urban Design and Landscape,

Planning Department. Significant adverse traffic, environmental, sewerage, drainage and landscape impacts arising from the proposal are not expected. 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 meet the relevant pollution control ordinances and the latest Code of Practice, to provide adequate supporting infrastructure/facilities for proper collection, treatment and disposal of waste/wastewater and to apply for relevant licence(s) where appropriate.

- 11.4 Given that two similar applications for animal boarding establishment (dog kennel) have been approved within the subject “AGR” zone, approval of the current application is generally in line with the Committee’s previous decisions.
- 11.5 There was one public comment 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 V**), 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 comment 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 24.6.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) 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;
- (b) no public announcement system, whistle blowing, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site at any time during the planning approval period;
- (c) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (d) the implementation of the accepted 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 24.3.2023;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
 - (f) 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 24.12.2022;
 - (g) in relation to (f) 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 24.3.2023;
 - (h) if any of the above planning conditions (a), (b), (c) or (e) 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 conditions (d), (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.

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 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

Appendix I	Application Form with Plans and Annexes received on 11.5.2022
Appendix Ia	FI received on 14.6.2022
Appendix Ib	FI received on 16.6.2022
Appendix II	Similar Applications within the Subject “AGR” Zone on the OZP
Appendix III	Government Departments’ General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment received during the Statutory Publication Period
Drawing A-1	Vehicular Access Plan with Run-in/out proposal
Drawing A-2	Site Layout Plan
Drawing A-3	Site Paving Plan
Drawing A-4	Drainage Proposal
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
JUNE 2022**