

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

**APPLICATION NO. A/YL-TT/570**

- Applicant** : Miss Li Ah Lee represented by Mr. Tang Lok San
- Site** : Lots 1385 S.A (Part), 1385 RP, 1386 (Part), 1387 S.A and 1387 S.B in D.D. 117, Tai Tong, Yuen Long, New Territories
- Site Area** : 1,615.2 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 for a Period of 3 Years and Associated Filling of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary animal boarding establishment for a period of three years and associated filling of land at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for the “AGR” zone, both ‘Animal Boarding Establishment’, which is a Column 2 use, and filling of land require planning permission from the Town Planning Board (the Board). The Site is currently fenced off, paved, largely vacant and partly covered with vegetation (**Plans A-2 to A-4**).
- 1.2 According to the applicant, regularisation of the filling of land at the Site is being applied for even though the concrete paving was carried out by others many years ago. Paving of the entire Site is necessary for the proposed use due to ease of site cleaning, site formation and to minimise dust nuisance due to vehicle manoeuvring. The applicant also pledges to reinstate the Site upon expiry of the planning permission. Not more than 60 dogs will be kept at the Site and all the dogs will be kept inside enclosed structures between 6:00 p.m. and 8:00 a.m. every day. Not more than two staff will be stationed at the Site to take care of the dogs during night time. The applicant pledges that no whistle blowing and public announcement/audio amplification system will be used at the Site and no vehicles exceeding 5.5 tonnes will be allowed to enter the Site. Visits to the Site will be by appointment basis. Plans showing the vehicular access leading to the Site and site layout submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

- 1.3 Major part of the Site is the subject of a previous rejected application (No. A/YL-TT/444) (details at paragraph 5 below).
- 1.4 The major development parameters of the previously rejected application and the current application are summarised as follows:

<b>Major Development Parameters</b>	<b>Previously Rejected Application No. A/YL-TT/444 (a)</b>	<b>Current Application No. A/YL-TT/570 (b)</b>	<b>Difference (b) – (a)</b>
Applied/ Proposed Use	Temporary Animal Boarding Establishment and Dog Breeding Centre for a Period of 3 Years	Proposed Temporary Animal Boarding Establishment for a Period of 3 Years and Associated Filling of Land	--
Site Area	About 1,824 m <sup>2</sup>	About 1,615.2 m <sup>2</sup>	-208.8 m <sup>2</sup> (-11%)
Total Floor Area	About 1,574.9 m <sup>2</sup>	About 692.25 m <sup>2</sup>	-882.65 m <sup>2</sup> (-56%)
Extent of Filling of Land	Not applied for (although the site was entirely hard paved at the time)	About 1,615.2 m <sup>2</sup> (i.e. the entire Site, with a depth of about 0.3m)	--
No. and Height of Structures	12 • for site office, storage, animal boarding, dog breeding centre and canopies (2.5m-5.3m, 1-2 storey(s))	10 • for site office, animal boarding, toilet and storage (3.5m, 1 storey)	-2 (-17%)
No. of Parking Space(s)	1 (for private car) (5m x 2.5m)	2 (for private cars) (5m x 2.5m each)	+1 (+100%)
No. of Loading/ Unloading Space	Nil	1 (for light goods vehicle) (7m x 3.5m)	+1
Operation Hours (visiting hours in brackets)	24 hours daily (10:00 a.m. to 5:00 p.m.)	24 hours daily (8:00 a.m. to 6:00 p.m.)	--

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

- (a) Application Form with executive summary and plans (**Appendix I**) received on 29.8.2022
- (b) Further Information (FI) received on 27.9.2022\* (**Appendix Ia**)
- (c) FI received on 18.10.2022\* (**Appendix Ib**)

\* accepted and exempted from publication 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 another “AGR” zone on the same OZP; similar consideration should be given to the current application;
- (b) the proposed animal boarding facilities will be constructed with sound and heat-proof materials and provided with mechanical ventilation and air-conditioning system to ensure welfare of the animals. Mitigation measures (such as dog muzzles) will be adopted to minimise the noise nuisance created by the dogs when they exercise in the outdoor areas during daytime; and
- (c) the proposal could help improve the nearby environment through the imposition of approval conditions, such as drainage improvements. The proposed development will not create adverse environmental and drainage impacts on 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 the Shap Pat Heung Rural Committee by 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**

- 5.1 Major part of the Site involves one previous application (No. A/YL-TT/444) for temporary animal boarding establishment with dog breeding centre which was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 5.7.2019. The application was rejected by the Committee mainly on the grounds that the Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application from agricultural rehabilitation and animal management perspectives<sup>1</sup>; the use was not in line with the planning intention of the “AGR” zone; and approval of the application would set an undesirable precedent for similar applications within the “AGR” zone. Details of the application is summarised in **Appendix II** and the location of the site is shown on **Plan A-1**.
- 5.2 Compared with the last application (No. A/YL-TT/444), the current application is submitted by a different applicant for animal boarding establishment use only (i.e.

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<sup>1</sup> DAFC did not consider the then applicant to be a suitable person to hold a Dog Breeder License under the relevant regulations due to previous violations of the license conditions.

without dog breeding centre use, but with filling of land) at a smaller site and with different site layout and development parameters.

## **6. Similar Applications**

- 6.1 There is no similar application for animal boarding establishment use but two approved similar applications for filling of land (for other uses) within/straddling the subject “AGR” zone. Furthermore, since rejection of the previous application No. A/YL-TT/444 in 2019, there have been four approved applications for temporary animal boarding establishment use (with/without filling of land) within other “AGR” zones on the same OZP. Details of the applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.
- 6.2 Applications No. A/YL-TT/505 and 515 for proposed filling of land (in association with the proposed/applied temporary place of recreation, sports or culture (hobby farm) use) were approved with conditions in 2021 mainly on the considerations that the applicants had justified the need for land filling; the extent of land filling with hard paving was considered not excessive; and approval of the applications on a temporary basis would not frustrate the long-term planning intention of the “AGR” zone as the sites would be reinstated upon expiry of the planning permissions.
- 6.3 Applications No. A/YL-TT/512, 525, 551 and 562 for temporary animal boarding establishment use with/without filling of land within another “AGR” zone on the same OZP were approved with conditions by the Committee each for a period of three years between 2021 and 2022 mainly on the considerations that approval of the applications 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 the departmental concerns could be addressed by imposing approval conditions.

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

- 7.1 The Site is:
- (a) accessible from Tai Tong Road to its northwest via a local road (**Plan A-3** and **Drawing A-1**); and
  - (b) currently fenced off, paved, largely vacant and partly covered with vegetation (**Plans A-2** to **A-4**).
- 7.2 The surrounding areas have the following characteristics (**Plans A-2** and **A-3**):
- (a) mixed in character with predominately open storage/storage yards and residential structures, intermixed with graves, burial urns, agricultural land, a pond, an orchard, an apiary and vacant land/structures;
  - (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate northwest; and
  - (c) the open storage/storage yards in the vicinity are suspected unauthorised developments subject to planning enforcement action.

## **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 in the subject “AGR” zone.

## **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 III** and **IV** respectively.

## **10. Public Comment Received During the Statutory Publication Period**

On 6.9.2022, 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 its intended agricultural use for supply of fresh produce, and the planning approvals given can more than fulfil the realistic demand 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 for a period of three years and associated filling of land at the Site zoned “AGR” on the OZP. Although the proposed use is not entirely in line with the planning intention of the “AGR” zone, DAFC has no strong view on the application from agricultural point of view. In view of the scale and nature of the proposed use, and with the imposition of approval condition requiring reinstatement of the Site upon expiry of the planning permission as proposed by the applicant, approval of the application on a temporary basis of three years will not jeopardise the long-term planning intention of the “AGR” zone.
- 11.2 While filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas, the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) and Director of Environmental Protection (DEP) have no objection from drainage and environmental perspectives. The applicant has also provided justifications for the need for filling of land.
- 11.3 The proposed use is generally not incompatible with the surrounding uses, which comprise predominantly graves and agricultural land (**Plan A-2**). Although there are residential structures nearby, the applicant has proposed various mitigation measures including enclosed structures equipped with soundproofing materials,

mechanical ventilation and air-conditioning system and the use of dog muzzles to minimise potential environmental impacts and nuisance on the surrounding area.

- 11.4 Concerned government departments, including Commissioner for Transport, DEP, CE/MN, DSD and Chief Town Planner/Urban Design and Landscape, Planning Department have no objection to/no adverse comment on the application. Significant adverse traffic, environmental, 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 concerned government departments. The applicant will also be advised to meet the relevant pollution control ordinances, adhere to the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” and to provide adequate supporting infrastructure/facilities for proper collection, treatment and disposal of waste/wastewater.
- 11.5 There are two similar approvals for filling of land within the subject “AGR” zone. There was also one previous application (No. A/YL-TT/444) rejected by the Committee in 2019 mainly on the grounds that there was objection from DAFC from agricultural rehabilitation and animal management perspectives, and that approval of the application would set an undesirable precedent for similar applications within the “AGR” zone. The former consideration is not applicable to the present case as DAFC has no strong view on the current application and there is no dog breeding centre use proposed. Regarding the latter consideration, four similar applications have been approved by the Committee within other “AGR” zones on the OZP since 2019, and the circumstances of those applications are similar to the current application. Furthermore, the current application is submitted by a different applicant and the Site is currently largely vacant; the application could therefore be considered afresh.
- 11.6 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 11.5 above are relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, 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 three years until 28.10.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### **Approval conditions**

- (a) the animals shall be kept inside enclosed structures with soundproofing materials, 24-hour mechanical ventilation and air-conditioning systems between 6:00 p.m. and 8:00 a.m. at the Site, as proposed by the applicant, 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 at the Site, as proposed by the applicant, at any time during the planning approval period;
- (c) the submission of a 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 28.4.2023;
- (d) in relation to (c) above, the implementation of the 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 28.7.2023;
- (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 28.4.2023;
- (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 28.7.2023;
- (h) if any of the above planning condition (a), (b) 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;
- (i) if any of the above planning condition (c), (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; and
- (j) upon expiry of the planning permission, the reinstatement of the Site to an amenity area, as proposed by the applicant, to the satisfaction of the Director of Planning or of the Town Planning Board.

#### Advisory clauses

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

12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) 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 for a departure from the planning intention, even on a temporary basis; and
- (b) the applicant fails to demonstrate in the submission that the proposed land filling is essential for the proposed use.

### **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 executive summary and plans received on 29.8.2022
<b>Appendix Ia</b>	FI received on 27.9.2022
<b>Appendix Ib</b>	FI received on 18.10.2022
<b>Appendix II</b>	Previous and Similar Applications
<b>Appendix III</b>	Government Departments' General Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Appendix V</b>	Public Comment
<b>Drawing A-1</b>	Vehicular Access Plan
<b>Drawing A-2</b>	Site Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
OCTOBER 2022**