

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

**APPLICATION NO. A/YL-TT/616**

<b><u>Applicant</u></b>	:	Mr. HE Yazi represented by Metro Planning and Development Company Limited
<b><u>Site</u></b>	:	Lot 1284 in D.D. 118, Tai Shu Ha Road West, Yuen Long, New Territories
<b><u>Site Area</u></b>	:	482 m <sup>2</sup> (about)
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Draft Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/19
<b><u>Zoning</u></b>	:	“Agriculture” (“AGR”)
<b><u>Application</u></b>	:	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, formed, and occupied by a warehouse without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Tai Shu Ha Road West to its east via a local track (**Plan A-2**). According to the applicant, the proposed animal boarding establishment would be used for dog kennel. Not more than six dogs will be kept on the Site at the same time and they will be accommodated in the enclosed structures equipped with soundproofing materials, mechanical ventilation and air-conditioning system. The applicant will deliver the dogs away from the Site after operation hours (i.e. 9:00 a.m. to 6:00 p.m. daily) and no dog or staff will stay at the Site outside the operation hours. No public announcement system, portable loud speaker or any form of audio amplification system and whistle blowing will be used at the Site. Besides, the applicant also applies for regularisation of the filling of land with concrete of about 0.2m in depth at the entire Site. Plans showing the vehicular access, site layout, and land filling, drainage and fire service installations (FSIs) proposals submitted by the applicant are at **Drawings A-1 to A-5** respectively.

- 1.3 The Site is involved in a previous application (No. A/YL-TT/512) for the same use which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board in 2021 (details at paragraph 5 below).
- 1.4 Compared with the previous application, the current application is submitted by the same applicant with the same layout and development parameters, which are summarised as follows:

<b>Site Area</b>	About 482 m <sup>2</sup>
<b>Total Floor Area</b>	About 225 m <sup>2</sup>
<b>Extent of Filling of Land</b>	About 482 m <sup>2</sup> (i.e. the entire site, with a depth of 0.2m)
<b>No. of Structures</b>	3 for dog kennels, site office and toilet
<b>Height of Structures</b>	Not more than 4m (1 storey)
<b>No. of Parking Spaces</b>	3 for private cars (2.5m x 5m each)
<b>Operation Hours</b>	9:00 a.m. to 6:00 p.m. daily (no dog or staff will stay at the Site outside the operation hours)

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

- (a) Application Form with attachments received on 10.10.2023 (Appendix I)
- (b) Further Information (FI) received on 8.11.2023 (Appendix Ia)  
(accepted and exempted from publication)

## 2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form (Appendix I). They can be summarised as follows:

- (a) The proposed use is not incompatible with the surrounding environment, and the temporary nature of the application would not jeopardise the long-term planning intention of the “AGR” zone.
- (b) The dog kennel will be maintained in a hygienic condition with proper management. The applicant will apply for licence(s) from the Agriculture, Fisheries and Conservation Department upon approval of the current application. The proposed development will not create significant adverse traffic, environmental and drainage impacts to the surrounding areas.
- (c) Similar applications have been approved in the “AGR” zone of the same OZP.

## 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 any planning enforcement action.

#### 5. **Previous Application**

The Site is involved in a previous application (No. A/YL-TT/512) for the same use for a period of three years which was approved with conditions by the Committee in 2021 mainly on the considerations that the temporary use would not jeopardise the long-term planning intention of the “AGR” zone and it was not incompatible with the surrounding uses. However, the planning permission was subsequently revoked on 25.9.2023 due to non-compliance with time-limited approval conditions regarding the submission and/or implementation of run-in/out, drainage and FSI proposals. Details of the application are summarised in **Appendix II** and the location of the site is shown on **Plan A-1**.

#### 6. **Similar Applications**

There are nine similar applications (No. A/YL-TT/525, 551, 562, 573, 574, 577, 582, 584 and 589) for proposed temporary animal boarding establishment (including seven applications with associated filling of land) within the subject “AGR” zone, which were all approved with conditions by the Committee each for a period of three or five years between 2021 and 2023 mainly on the considerations that the departmental concerns could be addressed by imposing approval conditions and other similar grounds as those mentioned in paragraph 5 above. Details of the applications are summarised in **Appendix II** and the location of these 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 from Tai Shu Ha Road West to its east via a local track (**Plan A-2**); and
- (b) fenced, paved and occupied by a warehouse (**Plans A-3 and A-4**).

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

- (a) predominantly agricultural land, plant nursery and graves with warehouses and open storage/storage yards to the south and across Tai Shu Ha Road West; and
- (b) the warehouses and open storage/storage yards are suspected unauthorized 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**

- 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 has adverse comments on the application.

### **Land Administration**

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

- (a) he has adverse comment on the application;
- (b) 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; and
- (c) according to the aerial photos, there may be illegal encroachment on Government Land (GL) at the southwest of the Site in which regularization would not be considered according to the prevailing land policy. According to their record, no permission was given for occupation of GL by his office. Any occupation of GL without Government's prior approval is not allowed. As such, the lot owner(s) should cease existing occupation of GL as demanded by LandsD.

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

On 17.10.2023, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual objecting to the application on the grounds that the proposed use will expedite the conversion of farmland to brownfield, which is unethical (**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, the Director of Agriculture, Fisheries and Conservation has no adverse comment on the application. Taking into account the planning assessments below, the proposed use on a temporary basis of three years could be tolerated.

- 11.2 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. In this regard, the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) and Director of Environmental Protection (DEP) have no objection to the application from drainage and environmental perspectives. An approval condition requiring reinstatement of the Site to an amenity area upon expiry of the planning permission is recommended.
- 11.3 The proposed use is small in scale and generally not incompatible with the surrounding uses which are predominately agricultural land, plant nursery and graves with warehouses and open storage/storage yards (**Plan A-2**).
- 11.4 Concerned government departments, including the Commissioner for Transport, DEP, CE/MN, DSD have no objection to/no adverse comment on the application from traffic, environmental and drainage aspects. 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 provide adequate supporting infrastructure/facilities for proper collection, treatment and disposal of waste/wastewater. Whilst DLO/YL, LandsD has adverse comment on the application due to possible occupation of GL, it can be dealt with separately under the land administration regime.
- 11.5 The Site is subject to a previous application (No. A/YL-TT/512) for the same use as the current application which was approved with conditions for a period of three years by the Committee in 2021. However, the planning permission was revoked in 2023 due to non-compliance with time-limited approval conditions regarding submission and implementation of run-in/out, drainage and FSIs proposals. Compared with the last application, the current application is submitted by the same applicant with the same layout and development parameters. The applicant has submitted run-in/out, drainage and FSIs proposals and the Chief Highway Engineer/New Territories West, Highways Department, CE/MN, DSD and Director of Fire Services have no adverse comment on the application. As such, sympathetic consideration may be given to the current application. The applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration would unlikely be given to any further applications.
- 11.6 Nine similar applications (seven with associated filling of land) have been approved within the subject “AGR” zone since 2021 on the grounds mentioned in paragraphs 5 and 6 above. Approval of the current application is generally in line with the Committee’s previous decisions.
- 11.7 There is one public comment objecting to the application received during the statutory publication period as summarised in paragraph 10 above. The planning assessments in paragraphs 11.1 to 11.6 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 **8.12.2026**. 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 any times during the planning approval period;
- (b) no public announcement system, portable loudspeaker or any form of audio amplification system and whistle blowing are allowed at the site, as proposed by the applicant, at any time during the planning approval period;
- (c) the submission of a revised 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 **8.6.2024**;
- (d) in relation to (c) above, the implementation of the revised 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 **8.9.2024**;
- (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 implementation of the accepted 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 **8.9.2024**;
- (g) 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;
- (h) if any of the above planning condition (c), (d) and (f) 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
- (i) upon 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 IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection are suggested for Members' 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 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**

<b>Appendix I</b>	Application Form with Attachments received on 10.10.2023
<b>Appendix Ia</b>	FI received on 8.11.2023
<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>Drawing A-3</b>	Site Paving Plan
<b>Drawing A-4</b>	Drainage proposal
<b>Drawing A-5</b>	FSIs 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  
DECEMBER 2023**