

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/621

- Applicants** : Mr. Cheung Fu Lun and Ms. Shum Choi Kiu represented by Metro Planning & 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 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tai Tong (TT) Outline Zoning Plan (OZP) No. S/YL-TT/20 (currently in force)
- Draft TT OZP No. S/YL-TT/19 (at the time of submission)
[No change to the zoning of the application site]
- 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 applicants seek planning permission for proposed temporary animal boarding establishment for a period of three years 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 largely vacant structure (**Plans A-2 to A-4**).
- 1.2 The Site is abutting Tai Shu Ha Road West to its west (**Plan A-2**). The proposal involves three single-storey structures including a dog kennel (about 225 m²), a site office (about 20 m²) and a toilet (about 4 m²). According to the applicants, the proposed animal boarding establishment would be used for dog kennel operated by the applicants and no more than nine dogs will be kept on the Site at the same time. The dogs will be accommodated in the enclosed structures equipped with soundproofing materials, mechanical ventilation and air-conditioning system. The applicants 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 dogs 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. In addition, the applicants also apply for regularisation of land filling at the entire site, which has been paved with concrete of 0.2m in thickness. Plans showing the site layout, paved area, run-in/out, drainage and fire service installations (FSIs) proposals submitted by the applicants are at **Drawings A-1 to A-5** respectively.

- 1.3 The Site is involved in one previous application 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 in paragraph 5 below).
- 1.4 Compared with the latest approved application (No. A/YL-TT/525), the current application is submitted by different applicants for the same use with same site area except for filling of land. The development parameters of the application are summarised as follows:

| Major Development Parameters | Application No. A/YL-TT/621 |
|------------------------------|---|
| Site Area | about 560 m ² |
| Total Floor Area | about 249 m ² |
| Extent of Filling of Land | about 560 m ² (i.e. the entire site, with a depth of 0.2m) |
| No. of Structures | 1 dog kennel, 1 site office and 1 toilet |
| Height of Structures | Not more than 4m (1 storey) |
| No. of Parking Spaces | 3 for private cars (2.5m x 5m each) |
| Operation Hours | 9:00 a.m. to 6:00 p.m. daily (no dogs or staff will stay at the Site outside the operation hours) |

- 1.5 In support of the application, the applicants have submitted the following documents:
- (a) Application Form with attachments received on 27.10.2023 (**Appendix I**)
 - (b) Supplementary Information (SI) received on 31.10.2023 (**Appendix Ia**)
 - (c) Further Information (FI) received on 4.12.2023* (**Appendix Ib**)
 - (d) FI received on 14.12.2023* (**Appendix Ic**)
- (*accepted and exempted from publication)

- 1.6 On 8.12.2023, the Committee of the Board agreed to defer making a decision on the application for two months as requested by the applicant.

2. **Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in the Application Form, SI and FIs at **Appendices I to Ic**. 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 applicants 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. The proposed use 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 applicants are the sole “current land owners”. 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 Applications**

- 5.1 The Site is involved in two previous applications (No. A/YL-TT/90 and 525). Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1**.
- 5.2 Application No. A/YL-TT/525 for the same use for a period of three years 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 in 2023 due to non-compliance with time-limited approval conditions regarding the submission and/or implementation of run-in/out, drainage and FSIs proposals.
- 5.3 Application No. A/YL-TT/90 for temporary open storage was rejected by the Committee in 2000. The considerations of this previous application are not relevant to the current application.

6. **Similar Applications**

There are ten similar applications (No. A/YL-TT/512, 551, 562, 573, 574, 577, 582, 584 589 and 616) for proposed temporary animal boarding establishment 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) abutting Tai Shu Ha Road West to its west (**Plan A-2**); and
- (b) fenced, formed and partly occupied by a temporary structure (**Plans A-3 and A-4**).

7.2 The surrounding areas are intermixed with warehouses, open storage/storage yards, workshops, unused land, agricultural land, plant nurseries, dog kennel and graves. Except a warehouse, a workshop, three open storage/storage yards and a dog kennel operating with valid planning permissions (No. A/YL-TT/583 and 551), other open storage/storage yards and warehouses 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 3.11.2023, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual raising objection to the application mainly on the ground that there is no justification to approve the application with revocation history (**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 regularisation of the 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 respectively. An approval condition requiring reinstatement of the Site to an amenity area upon expiry of the planning permission is recommended, should the Committee approve the application.
- 11.3 The proposed use is small in scale in terms of area and operation with no more than nine dogs to be kept on the Site. It is generally not incompatible with the surrounding uses which are intermixed with warehouses, open storage/storage yards, workshops, agricultural land, plant nurseries and dog kennel (**Plan A-2**).
- 11.4 Concerned government departments, including the Commissioner for Transport, DEP, CE/MN, DSD and Director of Fire Services have no objection to/no adverse comment on the application from traffic, environmental, drainage and fire safety aspects. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to address the technical requirements of the concerned government departments. The applicants will also be advised to meet the relevant pollution control ordinances, adhere to the latest Code of Practice and provide adequate supporting infrastructure/facilities for proper collection, treatment and disposal of waste/wastewater.
- 11.5 The Site is subject to a previous application (No. A/YL-TT/525) 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/or implementation of run-in/out, drainage and FSIs proposals. Compared with the latest approved application, the current application is submitted by different applicants with the same layout and similar development parameters. The applicants have also submitted run-in/out, drainage and FSIs proposals to address the technical issues. As such, sympathetic consideration may be given to the current application. The applicants will be advised that should they 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 Given one previous and ten similar applications 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 on the ground of the revocation history of the Site. 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 **26.1.2027**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) 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 applicants, at any time during the planning approval period;
- (b) all dogs shall be kept inside enclosed structures with soundproofing materials, mechanical ventilation and air-conditioning system, as proposed by the applicants, at any times during the planning approval period;
- (c) the implementation of the accepted run-in/out proposal within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by **26.10.2024**;
- (d) 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 **26.7.2024**;
- (e) in relation to (d) 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 **26.10.2024**;
- (f) in relation to (e) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (g) the submission of a revised 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 **26.7.2024**;
- (h) in relation to (g) above, the implementation of the revised 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 **26.10.2024**;
- (i) if any of the above planning condition (a), (b) or (f) 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;
- (j) if any of the above planning condition (c), (d), (e), (g) and (h) 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
- (k) 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 is suggested for Members' reference:

the proposed use is not in line with the planning intention of the "Agriculture" 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 applicants.

14. Attachments

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| Appendix I | Application Form with Attachments received on 27.10.2023 |
| Appendix Ia | SI received on 31.10.2023 |
| Appendix Ib | FI received on 4.12.2023 |
| Appendix Ic | FI received on 14.12.2023 |
| Appendix II | Previous and Similar Applications |
| Appendix III | Government Departments' General Comments |
| Appendix IV | Recommended Advisory Clauses |
| Appendix V | Public Comment |
| Drawing A-1 | Site Layout Plan |
| Drawing A-2 | Site Paving Plan |
| Drawing A-3 | Run-in/out proposal |
| Drawing A-4 | Drainage proposal |
| Drawing A-5 | FSIs Plan |
| Plan A-1 | Location Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plan A-4 | Site Photos |