

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1297

- Applicant** : Mr. XU Sen Lin represented by Metro Planning & Development Company Limited
- Site** : Lots 917 (Part), 937 S.A (Part) and 937 S.B (Part) in D.D. 119, Pak Sha Tsuen, Yuen Long
- Site Area** : 1,140 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zoning** : “Green Belt” (“GB”)
- Application** : Proposed Temporary Animal Boarding Establishment (Dog Kennel) for a Period of 3 Years and Associated Filling and Excavation of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary animal boarding establishment (dog kennel) for a period of three years and associated filling and excavation of land at the application site (the Site) zoned “GB” on the OZP (**Plan A-1**). According to the Notes of the OZP for the “GB” zone, ‘Animal Boarding Establishment’ which is a Column 2 use, as well as filling and excavation of land require planning permission from the Town Planning Board (the Board). The Site is currently fenced off, cleared of vegetation and vacant (**Plans A-2 to A-4**).
- 1.2 The Site with the ingress/egress at the northern part is accessible from Kung Um Road via a local track (**Drawing A-1, Plans A-2 and A-3a**). According to the applicant, three single-storey structures (not exceeding 4m in height) with a total floor area of about 460m² are proposed for dog kennels, site office and toilet uses. The applicant also proposes to (i) fill the entire site (i.e. about 1,140m²) with concrete of about 0.2m in depth for site formation; and (ii) excavate about 126m² of land along the periphery of the Site of about 0.6m in depth for provision of surface U-channels (**Drawing A-3**). Not more than 40 dogs will be accommodated at the Site and all dogs will be kept within enclosed structures equipped with soundproofing materials, mechanical ventilation and air-conditioning system at all times. The operation hours would be between 9:00 a.m. to 7:00 p.m. daily

(including Sundays and public holidays). There will be six staff at the Site and no staff and dog would stay overnight at the Site after the operation hours. No public announcement system or whistle blowing will be used at the Site. The maximum number of visitors is about 12 per day and visits will be on appointment basis. Four private car parking spaces (i.e. 5m x 2.5m each) will be provided within the Site, one of which will be reserved for the use of the staff for picking up of dogs to/from the Site. Plans showing the vehicular access leading to the Site, site layout and extent of land filling and excavation submitted by the applicant are at **Drawings A-1 to A-3** respectively.

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

- (a) Application Form with attachments received on 23.12.2024 (**Appendix I**)
- (b) Further Information (FI) received on 24.1.2025 (**Appendix Ia**)
[accepted and 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 FI (**Appendices I and Ia**). They can be summarised as follows:

- (a) as the Site is situated at the fringe of the “GB” zone and the adjoining “Undetermined” (“U”) zone is predominated by open storage and warehouse uses, the proposed development is not incompatible with the surrounding environment;
- (b) the proposed use is temporary in nature and would not jeopardise the long-term planning intention of the “GB” zone;
- (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”) and obtain a licence under the Water Pollution Control Ordinance before effluent discharge. Adequate supplies of potable water and suitable drainage facilities will be provided at the Site;
- (d) septic tank and soakaway system will be provided in accordance with the requirements set out in the Practice Note for Professional Persons (ProPECC) PN 1/23 of the Environmental Protection Department;
- (e) the proposed dog kennels will be maintained in sanitary condition with proper disposal of animal excreta, food waste, used bedding and animal carcasses. Pest control will be conducted regularly and access of other animals to the Site would be restricted; and
- (f) the proposed development will not create significant adverse traffic, environmental and drainage impacts.

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. Town Planning Board Guidelines

The Town Planning Board Guidelines for Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10) are relevant to the application. The relevant assessment criteria are detailed at **Appendix II**.

5. Background

- 5.1 Based on the aerial photo taken in 2019 (**Plan A-3c**), the Site was mostly covered by vegetation. Vegetation clearance was observed based on the aerial photos of 2020 and 2023 and site photos taken on 31.12.2024 (**Plans A-3a, A-3b and A-4**).
- 5.2 The Site is subject to planning enforcement action against unauthorized development (UD) involving filling of land (case No. E/YL-TYST/918) (**Plan A-2**). Reinstatement Notice was issued on 20.8.2024 requiring reinstatement of the concerned land by 20.11.2024. As the Site has not been reinstated upon expiry of the notice, prosecution action is being considered.

6. Previous Application

There is no previous planning application concerning the Site.

7. Similar Application

There is no similar planning application for temporary animal boarding establishment use within the subject “GB” zone in the past five years.

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

8.1 The Site is:

- (a) accessible from Kung Um Road via a local track (**Plans A-2 and A-3a**); and
- (b) currently fenced off, cleared of vegetation and vacant (**Plans A-2 to A-4**).

8.2 The surrounding areas have the following characteristics (**Plans A-2 to A-4**):

- (a) situated in area of rural fringe landscape predominated by temporary structures, village houses and woodland intermixed with open storage/storage yards, warehouses, car servicing, workshop, unused land and vacant land/structures, which are mainly located to the east of the Site in the adjoining “U” zone; and
- (b) some of the open storage/storage yards, warehouses, car servicing and workshop in the vicinity are suspected UD's subject to planning enforcement action.

9. Planning Intention

- 9.1 The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.
- 9.2 According to the Explanatory Statement of the OZP, as filling of land and excavation of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, permission from the Board is required for such activities.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government departments as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments are provided in **Appendices III** and **IV** respectively.
- 10.2 The following government departments have reservation/adverse comments on the application:

Land Administration

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

- (a) he has reservation on the application since there is/are unauthorised structure(s) and/or uses on Lots 937 S.A and 937 S.B in D.D. 119 which is already subject to lease enforcement actions according to case priority. The lot owner(s) should rectify/apply for regularisation on the lease breaches as demanded by LandsD; and
- (b) warning letter has been registered in the Land Registry against the lot(s) concerned, if the unauthorised structure(s) was/were removed, the applicant should take appropriate action deemed necessary, including but not limited to applying to his office for the issuance of a cancellation letter.

Landscape

10.2.2 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) according to the aerial photos of 2019, 2020 and 2023 (**Plans A-3a to A-3c**), the Site is situated in area of rural fringe landscape predominated by temporary structures, village houses and woodland. From the site photos taken on 31.12.2024 (**Plan A-4**), the Site was covered by bare soil surface. No vegetation/trees were found; and

- (b) compared with the site photos taken on 31.12.2024 and the aerial photos of 2019, 2020 and 2023 (**Plans A-3a to A-3c**), tree/vegetation removal and site formation works were already undertaken at the Site. Significant adverse impact on landscape resources had taken place. Moreover, noting the existing vegetation cover in the vicinity, further degradation of the landscape resources and quality of the “GB” zone by the proposed development is envisaged. As such, the proposed development is considered incompatible with landscape character and resources of the subject “GB” zone.

11. Public Comments Received During the Statutory Publication Period

On 31.12.2024, the application was published for public inspection. During the statutory public inspection period, two public comments were received from The Kadoorie Farm & Botanic Garden Corporation and an individual respectively, objecting to the application on the grounds that the proposed development is not in line with the planning intention of the “GB” zone; the enforcement history of the Site should be taken into consideration by the Board; the application is a suspected “Destroy First and Build Later” case for future brownfield uses; and there is sufficient land zoned “Agriculture” for the proposed animal boarding establishment use (**Appendix V**).

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary animal boarding establishment (dog kennel) for a period of three years and associated filling and excavation of land at the Site zoned “GB” on the OZP (**Plan A-1**). The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within the “GB” zone. Moreover, filling and excavation of land within the “GB” zone requires planning permission as it may cause adverse drainage impact on the adjacent areas and adverse impacts on the natural environment. In this regard, while the Chief Engineer/Mainland North of Drainage Services Department, Director of Environmental Protection and Director of Agriculture, Fisheries and Conservation have no objection to/no adverse comment on the application from drainage, environmental and nature conservation aspects respectively, the proposed use with associated filling and excavation of land, which involves vegetation clearance and hard paving of the entire site, is not in line with the planning intention of the “GB” zone. Moreover, the applicant has not provided strong justifications to substantiate the need for hard-paving of the entire site. There is no strong planning justification given in the submission to warrant a departure from the planning intention, even on a temporary basis.
- 12.2 The Site is situated in area of rural fringe landscape predominated by temporary structures, village houses and woodland (**Plans A-2 and A-3a**). While there are open storage/storage yards, warehouses, car servicing and workshop located to the east of the Site, they are situated in areas under another zoning (i.e. “U” zone) and are suspected UD’s subject to planning enforcement action. Noting the existing vegetation cover in the vicinity of the Site, CTP/UD&L, PlanD considers that the proposed development which involves vegetation clearance and hard paving of the

entire site is incompatible with the landscape character and resources of the surrounding areas.

- 12.3 According to TPB PG-No. 10, any application for new development within “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. Moreover, any development should be compatible with the surrounding areas and should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment. In this regard, aerial photos in 2019, 2020 and 2023 and site photos in 2024 show that tree/vegetation removal and site formation works were undertaken at the Site (**Plans A-3a to A-4**). CTP/UD&L, PlanD considers that significant adverse landscape impact had taken place and envisages that the proposed use would lead to further degradation of the existing landscape resources and quality of the “GB” zone. Hence, the current application is considered not in line with TPB PG-No. 10.
- 12.4 Other concerned government departments, including the Commissioner for Transport, Director of Fire Services and Head of Geotechnical Engineering Office, Civil Engineering and Development Department have no objection to/no adverse comment on the application from traffic, fire safety and geotechnical aspects respectively. As for DLO/YL, LandsD’s concerns on the unauthorised structure(s) and/or uses on the Site which is already subject to lease enforcement actions, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.
- 12.5 There are two public comments received during the statutory publication period objecting to the application as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.4 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department does not support the application for the following reasons:
- (a) the proposed use with associated filling and excavation of land is not in line with the planning intention of the “GB” zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. 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 proposed use with associated filling and excavation of land is not in line with the Town Planning Board Guidelines for ‘Application for Development within the Green Belt zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) in that the proposed use with associated filling and excavation of land is considered not compatible with the surrounding areas, and the applicant fails to demonstrate that the proposed use with associated filling and excavation of land would not have adverse landscape impact on the surrounding areas.

- 13.2 Alternatively, 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 **14.2.2028**. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval conditions

- (a) 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 14.8.2025;
- (b) in relation to (a) 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 14.11.2025;
- (c) in relation to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) the submission of a proposal for fire service installations and water supplies for firefighting 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 14.8.2025;
- (e) in relation to (d) above, the implementation of the proposal for fire service installations and water supplies for firefighting 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 14.11.2025;
- (f) if the above planning condition (c) is not complied with, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (g) if any of the above planning condition (a), (b), (d) or (e) 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
- (h) 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**.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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 permission should be valid on a temporary basis.

15. Attachments

Appendix I	Application Form with attachments received on 23.12.2024
Appendix Ia	FI received on 24.1.2025
Appendix II	Extracts of TPB PG-No. 10
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Plan showing Extent of Filling and Excavation of Land
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3a to A-3c	Aerial Photos taken in 2023, 2020 and 2019
Plan A-4	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2025**