

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

**APPLICATION NO. A/YL-KTN/725**

<b><u>Applicant</u></b>	: Mr. PANG King-hung represented by Metro Planning and Development Company Limited
<b><u>Site</u></b>	: Lot 1376 RP (Part) in D.D. 109, Tai Kong Po, Kam Tin, Yuen Long
<b><u>Site Area</u></b>	: About 2,280m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: Proposed Temporary Animal Boarding Establishment (Dog Kennel cum Dog Recreation Centre) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application Site (the Site) for proposed temporary animal boarding establishment (dog kennel cum dog recreation centre) for a period of 3 years. According to the Notes of the OZP, ‘Animal Boarding Establishment’ is a Column 2 use in the “AGR” zone which requires permission from the Town Planning Board (the Board). The Site is currently vacant and covered with weeds (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development involves four one-storey structures (not more than 3.5m in height) with a total floor area of about 484m<sup>2</sup> for dog kennel, dog washing facility and dog recreation centre, portable toilet and site office. Eight private car parking spaces and one loading/ unloading space for light goods vehicle will be provided. The operation hours are from 9:00 a.m. to 7:00 p.m. daily, including public holidays. Not more than 16 dogs will be accommodated at the Site. According to the applicant, no public announcement system and whistle blowing will be used at the Site. No dogs will stay at the Site

after operation hour. All dogs will be kept inside the enclosed structures equipped with soundproofing materials and mechanical ventilation and air conditioning. The Site is accessible from Kong Po Road. The layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application form with plans received on 10.9.2020 **(Appendix I)**
- (b) Further Information (FI) received on 28.12.2020 in response to departmental comments\* **(Appendix Ia)**
- (c) FI received on 10.2.2021 in response to departmental comments\* **(Appendix Ib)**
- (d) FI received on 19.2.2021 in response to departmental comments\* **(Appendix Ic)**

*\*exempted from publication requirement*

1.4 On 6.11.2020, the Committee agreed to defer a decision on the application to allow time for the applicant to prepare FI to address departmental comments. After the deferral request, the applicant submitted FI in response to departmental comments. The application is scheduled for consideration by the Committee at this meeting.

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

The justifications put forth by the applicant in support of the application are detailed in the application form at **Appendix I**. They can be summarized as follows:

- (a) The proposed temporary development is temporary in nature and it would not frustrate the long-term planning intention of the “AGR” zone.
- (b) The nature, layout, form and scale of the proposed development is not incompatible with the surrounding environment. Similar animal boarding establishment applications were approved in the same “AGR” zone.
- (c) The proposed development would only serve as a dog kennel and dog recreation centre. No other animal and services will be accepted.
- (d) No significant traffic, drainage and environmental impacts on the surroundings are foreseen. Landscape and drainage proposals are submitted in support of the application. The dog kennel and recreation centre will keep in a sanitary

condition. The size of the proposed temporary structures are kept minimal in order to suit the operation need.

**3. Compliance with the “Owner’s Consent/Notification” Requirements**

The applicant is not the “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 section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notification letter to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

**4. Background**

The Site is subject to a planning enforcement action against unauthorized filling of land (**Plan A-2**). Reinstatement Notice was issued on 22.9.2020 requiring the reinstatement of the concerned land including to remove the leftovers, debris and fill materials and to grass the land.

**5. Previous Application**

There is no previous application at the Site.

**6. Similar Applications**

6.1 There are 40 similar applications for temporary animal boarding establishment involving 27 sites within the same “AGR” zone. Except Application No. A/YL-KTN/156, which was rejected by the Rural and New Town Planning Committee (the Committee), the remaining 39 applications were approved with conditions by the Committee. Details of these applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

*One Rejected Application*

6.2 Application No. A/YL-KTN/156 for proposed dog kennel for a period of 3 years was rejected by the Committee on 8.11.2002 on the grounds that the proposed development was not in line with the planning intention of the “AGR” zone; and there was no information in the submission to demonstrate that the proposed development would not cause adverse environmental and drainage impacts on the surrounding areas.

### *39 Approved Applications*

- 6.3 39 applications at 26 sites were approved with conditions by the Committee for 2 to 5 years between 2005 and January 2021 for similar reasons that temporary approval would not frustrate the long-term planning intention of the “AGR” zone; the developments were not incompatible with the surrounding land uses; previous approvals were granted and the applicants had made effort to comply with the approval conditions; and/or the relevant government departments generally had no adverse comments on the developments. However, planning permissions for 16 applications were revoked due to non-compliance with approval conditions.
- 6.4 Apart from the above processed similar applications, Application No. A/YL-KTN/747 for temporary animal boarding establishment for a period of 5 years within the same “AGR” zone will be considered at the same meeting.

## **7. The Site and Its Surrounding Areas (Plans A-2 to A-4)**

- 7.1 The Site is:
- (a) vacant and covered with weeds; and
  - (b) accessible to Kong Po Road.
- 7.2 The surrounding areas are rural in character intermixed with open storage yards, residential structures/ dwellings and vacant/ unused land:
- (a) to its north and east are vacant/ unused land, open storage yards and residential structures/ dwellings (the nearest about 90m to its northwest);
  - (b) to its immediate south are Kong Po Road and Kam Tin River. To its further south is a residential development (i.e. Seasons Monarch); and
  - (c) to its west across Kong Po Road is a nullah.

## **8. Planning Intention**

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.

## **9. Comments from Relevant Government Departments**

- 9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

### **Land Administration**

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

- (a) The Site comprises an Old Scheduled 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.
- (b) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.

### **Traffic**

#### 9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

#### 9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Chi Ho Road.

- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

### **Environment**

#### 9.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) There was no environmental complaint concerning the Site received in the past three years.
- (b) According to the applicant, all dogs shall be kept inside the enclosed structures with soundproofing material and provided with mechanical ventilation and air conditioning system for both the dog kennel, and the dog washing facility & dog recreation centre. All the dogs will leave the Site after the operation hours and no public announcement system is allowed to be used on the Site.
- (c) Provided that the facilities will be properly designed and maintained to minimize any potential environmental nuisance, he has no objection to the application subject to the following approval conditions:
  - (i) No dog shall be stayed at the Site after operation hours (i.e. 7:00pm to 9:00am) as proposed by the applicant; and
  - (ii) no public announcement system, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site as proposed by the applicant.
- (d) The applicant is advised to properly design and maintain the facilities to minimize any potential environmental nuisance e.g. the proposed structures for animal boarding establishment (including dog washing facility, dog recreation centre and the dog kennel) should be enclosed with soundproofing materials with provision of 24-hours mechanical ventilation and air-condition system.
- (e) The applicant is also advised to follow the requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site”. Effluent discharge from the Site is subject to control under the Water Pollution Control Ordinance. If connection to public sewers is not feasible, septic tank and soakaway system can be used. Its design, construction and operation should follow the Environmental Protection Department’s (EPD) requirements of Practice Note

for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” including percolating test, with certification by an Authorized Person.

### **Landscape**

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

- (a) She has no objection to the application from landscape planning perspective.
- (b) With reference to the aerial photo taken on 18.10.2019, the Site is situated in an area of rural landscape character comprising scattered tree groups, temporary structures, village houses, active and abandoned farmlands. Noting that the proposed development involves 4 one-storey structures with building height of not more than 3.5m, the proposed development is not incompatible to the surrounding environment.
- (c) Referring to the site visit dated 22.9.2020, the Site is vacant and covered with self-seeded grasses. No existing tree is found within the Site. Significant adverse impact to landscape resources within the Site is not anticipated.

### **Agriculture and Nature Conservation**

9.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) The Site falls within the “AGR” zone and is currently a vacant land. Agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries etc. As the Site possesses a potential for agricultural rehabilitation, the application is not supported from agricultural point of view.
- (b) Nevertheless, he has no comment from the conservation and animal establishment boarding licence aspects. Should the application be approved, the applicant should be reminded not to disturb / pollute the Kam Tin River nearby. Also, the Site does not associate with any licences granted by his department, nor has he received any application regarding the Site. Under the Public Health (Animals) (Boarding Establishment) Regulations, Cap. 139I, any person who provides food and accommodation for animals in return for a fee paid by the owner must apply for a

Boarding Establishment Licence from his department. He will provide detailed information and guidance on Animal Boarding Establishment when the applicant submits the licence application.

### **Drainage**

9.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in-principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission of a revised drainage proposal and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.
- (c) His detailed comments on the submitted drainage proposal is at **Appendix IV**.

### **Fire Safety**

9.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Building Matters**

9.1.9 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):



- (a) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the Buildings Authority should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) His detailed comments on UBW, provision of access, temporary or licensed structures are at **Appendix IV**.
- (c) Detailed checking under the BO will be carried out at building plan submission stage.

### **Environmental Hygiene**

#### 9.1.10 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) If the proposal involves any commercial/ trading activities, there should be no encroachment on the public place and no environmental nuisance should be generated to the surroundings. Its state should not be a nuisance or injurious or dangerous to health and surrounding environment. Also, for any waste generated from the activities in the premises, the applicant should handle on their own/ at their expenses. Any animal carcass/ parts shall be properly wrapped or bagged before disposal.
- (b) Proper licence/permit issued by the Food and Environmental Hygiene Department (FEHD) is required if there is any food business/ catering service/ activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public and the operation of any business should not cause any obstruction.

### **District Officer's Comments**

#### 9.1.11 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

He has not received any comments from locals upon close of consultation and he has no particular comment on the application.

#### 9.2 The following Government departments have no objection to / no comment on the application:

- (a) Project Manager (West), Civil Engineering and Development Department;
- (b) Director of Electrical and Mechanical Services;

- (c) Chief Engineer/ Construction, Water Supplies Department; and
- (d) Commissioner of Police.

## **10. Public Comments Received During Statutory Publication Period**

- 10.1 On 4.9.2020, the application was published for public inspection. During the three-week statutory publication period, 5 public comments were received.
- 10.2 Four comments from Kadoorie Farm & Botanic Garden Corporation, World Wide Fund for Nature (Hong Kong), Hong Kong Bird Watching Society and an individual (**Appendices III-1 to III-4**) object to the application mainly on the grounds that the proposed use is not in line with the planning intention of the “AGR” zone; there are active farms in the vicinity of the Site and the Site has agricultural rehabilitation potential; the proposed development will cause adverse sewerage impact; approval of the application would set an undesirable precedent in the “AGR” zone ; and there is no information on the applicant and his experience in this field.
- 10.3 The remaining comment from another individual (**Appendix III-5**) has no-in principle objection to the applicant but asked for more information on the operation details of the proposed development.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary animal boarding establishment (dog kennel cum dog recreation centre) for a period of 3 years in the “AGR” zone. 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, and DAFC does not support the application from the agriculture point of view as the Site possesses potential for agricultural rehabilitation. However, approval of the application on temporary basis for a period of 3 years would not jeopardize the long-term planning intention of the “AGR” zone.
- 11.2 The proposed development is considered not incompatible with the surrounding areas, which are rural in character intermixed with residential structures / dwellings and vacant/ unused land. Although there are residential dwellings/ structures in the vicinity of the Site (the nearest about 90m to its northeast) (**Plan A-2**), the applicant advised that no public announcement system and whistle blowing will be used at the Site. No dog will stay at the Site after operation hour. All dogs will be kept inside the enclosed structures which are equipped with soundproofing materials, mechanical ventilation and air conditioning. DEP has no adverse comment on the application.

- 11.3 Relevant departments consulted including C for T, DEP, CE/MN of DSD, CTP/UD&L of PlanD and D of FS, except DAFC, have no adverse comment on the application. To minimise any possible environmental nuisance, approval conditions restricting the operation hours and outdoor animal activities and prohibiting the use of public announcement system and whistle blowing are recommended in paragraphs 12.2 (a) to (c) below. The applicant will also be advised to adopt the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites'. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions (d) to (i) recommended in paragraph 12.2 below.
- 11.4 The Site is not subject to any previous application. 39 similar applications on 26 sites within the same "AGR" zone were approved with conditions by the Committee between 2005 and 2021 as stated in paragraph 6 above. The circumstances of the only rejected application are different from the current one which is not subject to adverse comments on environmental and drainage aspects. The approval of the current application is in line with the Committee's previous decisions.
- 11.5 Five public comments, with four objecting to the application and one providing comment, were received during the statutory publication period as detailed in paragraph 10 above. In this regard, the departmental comments and planning considerations and assessments as stated 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 comments mentioned in paragraph 10 above, the Planning Department has no objection to the proposed temporary animal boarding establishment (dog kennel cum dog recreation centre) for a period of 3 years.
- 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 26.2.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) all animals shall be kept inside the enclosed structures on the Site, as proposed by the applicant, at all times during the planning approval period;
- (c) no public announcement system, portable loud speaker, any form of audio amplification system or whistle blowing is allowed to be used on the Site

- at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
  - (e) the submission of 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 26.8.2021;
  - (f) in relation to (e) above, the implementation of 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 26.11.2021;
  - (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
  - (h) the submission of 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 26.8.2021;
  - (i) in relation to (h) above, the implementation of 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 26.11.2021;
  - (j) if any of the above planning condition (a), (b), (c), (d) or (g) 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;
  - (k) if any of the above planning condition (e), (f), (h), or (i) 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
  - (l) upon the 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 attached 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 development 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. It is also intended 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**

- Appendix I** Application form with plans received on 10.9.2020
- Appendix Ia** FI received on 28.12.2020
- Appendix Ib** FI received on 10.2.2021
- Appendix Ic** FI received on 19.2.2021
- Appendix II** Similar applications within the same “AGR” zone on the Kam Tin North OZP
- Appendices III-1 to III-5** Public comments received during the statutory publication period
- Appendix IV** Advisory Clauses
- Drawing A-1** Layout Plan
- Plan A-1** Location Plan with Similar Applications
- Plan A-2** Site Plan
- Plan A-3** Aerial Photo

**PLANNING DEPARTMENT  
FEBRUARY 2021**