

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL  
FOR TEMPORARY USE  
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTN/739**

<b><u>Applicant</u></b>	: Ms. CHEUNG Choi Yee
<b><u>Site</u></b>	: Lot 4 (Part) in D.D. 110, Tai Kong Po, Kam Tin, Yuen Long
<b><u>Site Area</u></b>	: 2,657m <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>	: Renewal of Planning Approval for Temporary Animal Boarding Establishment for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning permission to use the application site (the Site) for temporary animal boarding establishment for a period of 3 years. According to the Notes of the OZP, ‘Animal Boarding Establishment’ is a Column 2 use within the “AGR” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with valid planning permission (**Plans A-2, A-4a and A4b**). All the approval conditions of the last approved planning application No. A/YL-KTN/577 have been complied with and the planning permission is valid until 26.1.2021.
- 1.2 According to the applicant, seven 1-storey structures with total floor area of 248m<sup>2</sup> and building height not exceeding 4m are erected at the Site for kennel, reception, rain shelter, site office and store room, bath room and toilet. 4 private car parking spaces and 1 parking space for light goods vehicle are provided within the Site. Part of the Site is used for grassland for pet activity. Not more than 25 dogs will be allowed in the development. The operation hours are from 10am to 6pm daily except Wednesday, with overnight animal boarding service. The animals will be kept indoor after operation hours. The applicant also stated that soundproofing materials and installation of ventilation system for the kennel are provided. No

public announcement system will be used. The Site is accessible via Kong Tai Road. The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 Compared with the last approved application (No. A/YL-KTN/577), the current application submitted by the same applicant is the same in terms of use, floor area and layout (except the original cattery is changed to storage room).
- 1.4 In support of the application, the applicant has submitted the following documents:
  - (a) Application form with plan received on 9.11.2020 (Appendix I)
  - (b) Further Information (FI) received on 27.12.2020, 29.12.2020 and 30.12.2020 in response to departmental comments  
*[exempted from publication requirement]*

## 2. **Justifications from the Applicants**

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

- (a) The applicant has complied with all the approval conditions for the previous approved planning application (No. A/L-KTN/577). There is no change in the structures and facilities of the Site.
- (b) The development would not contravene the planning intention of the “AGR” zone. It is not incompatible with the surrounding land uses. There are similar cases approved in the same “AGR” zone, and the application would not create an undesirable precedent.
- (c) No adverse traffic and drainage impacts on the surrounding areas are foreseen. There is demand for animal boarding facility. The applicant has obtained animal boarding licence issued by the Agriculture, Fisheries and Conservation Department.

## 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 section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by obtaining consent from the “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 ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG-No. 34C) are relevant to this application. The relevant assessment criteria are extracted below:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
- (d) whether the approval period sought is reasonable; and
- (e) any other relevant considerations.

#### 5. **Background**

The Site is not subject to planning enforcement action.

#### 6. **Previous Applications**

- 6.1 The Site is subject to two previous applications. Details of these applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.
- 6.2 Application No. A/YL-KTN/551 submitted by a different applicant for temporary open storage of construction materials and machinery for a period of 3 years was rejected by the Rural and New Town Planning Committee (the Committee) in 2017 mainly for the reasons that the development was not in line with the planning intention of the “AGR” zone; it did not comply with the Town Planning Board Guidelines No. 13E for Application for Open Storage and Port Back-up Uses in that there was no previous approval granted at the site and there were adverse departmental comments on the application; the applicant failed to demonstrate that the development would not generate adverse environmental and landscape impacts on the surroundings; and approval of the application would set undesirable precedents.

- 6.3 Application No. A/YL-KTN/577 submitted by the same applicant of the current application for the same use was approved with conditions by the Committee on 26.1.2018 mainly for the reasons that approval on a temporary basis would not jeopardise the long-term planning intention of the “AGR” zone; the development was not incompatible with the surrounding land uses; and relevant departments generally had no adverse comment on the application. All approval conditions have been complied with and the planning permission is valid until 26.1.2021.

## **7. Similar Applications**

- 7.1 There are 36 similar applications for temporary animal boarding establishment involving 24 sites within the same “AGR” zone. Except Application No. A/YL-KTN/156, which was rejected by the Committee, the remaining 35 applications were approved with conditions by the Committee. Details of these applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.

### *One Rejected Application*

- 7.2 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.

### *35 Approved Applications*

- 7.3 35 applications at 23 sites were approved with conditions by the Committee for 2 to 5 years between 2005 and November 2020 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 13 applications were revoked due to non-compliance with approval conditions.
- 7.4 Apart from the above processed similar applications, Application No. A/YL-KTN/740 for temporary animal boarding establishment for a period of 3 years within the same “AGR” zone will be considered at the same meeting.

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

- 8.1 The Site is:

- (a) currently used for the applied use with valid planning permission; and
  - (b) accessible via Kong Tai Road.
- 8.2 The surrounding area is rural in character intermixed with residential dwellings/structures, cultivated agricultural land, parking of vehicles, hobby farm, cattery, open storage/workshop and vacant/unused land:
- (a) to its north is an area zoned “Conservation Area” (“CA”);
  - (b) to its east and southeast are catteries and hobby farm with planning permissions, parking of vehicles, pigsty/ chicken farm, cultivated agricultural land and residential dwellings/structures; and
  - (c) to its west and southwest are residential structures/dwellings (the nearest one on the immediate west), open storage/ workshop and unused land.

## **9. 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.

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

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

### **Land Administration**

- 10.1.1 Comments of the District Lands Officer, Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) 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.
  - (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**

#### 10.1.2 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.

#### 10.1.3 Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD):

- (a) Part of Kong Tai Road is maintained by his office.
- (b) HyD is not/ shall not be responsible for the maintenance of any access connecting to the Site and part of Kong Tai Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

### **Agriculture**

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

- (a) Considering that the previous application for the same use as the current application was approved by the Board, he has no strong view against the application for renewal of planning approval.
- (b) The Site is associated with an Animal Boarding License issued by

his department which was valid till 26.11.2020 and is currently under the renewal process.

### **Environment**

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

- (a) Provided the applicant would minimise any noise from the applied use such as prohibiting the use of public announcement system, portable loudspeakers or any form of audio amplification system so that it would not cause environmental nuisance to nearby sensitive receivers, he has no objection to the renewal application from environmental planning perspective subject to the following approval condition:
  - (i) The animals shall be kept inside the enclosed structures between 6:00p.m. and 10:00a.m., as proposed by the applicant, during the planning approval period.
  - (ii) No public announcement system, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site at any time during the planning approval period.
- (b) Moreover, the applicant is also advised to (i) properly design and maintain the facilities to minimize any potential environmental nuisance, e.g. the proposed structures for animal boarding establishment should be enclosed with soundproofing materials with provision of 24-hour mechanical ventilation and air-conditional system; (ii) to follow the requirements stipulated in “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site”; (iii) to provide adequate supporting infrastructure/ facilities for proper collection, treatment and disposal of waste/ wastewater generated from the proposed use. If septic tank and soakaway system will be used in case of unavailability of public sewer, its design, construction and operation should follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environment Protection Department (EPD)” including percolation test; and (iv) it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances.
- (c) There is no environmental complaint concerning the Site received by DEP in the past 3 years.

### **Landscape**

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

- (a) He has no objection to the application from the landscape planning perspective.
- (b) Based on 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 and abandoned farmlands. The applied use is considered not incompatible with the surrounding landscape setting.
- (c) Referring to his site visit dated 24.11.2020, the Site is in operation as animal boarding establishment. 15 nos. of *Ficus microcarpa* (細葉榕) in good to fair conditions are found within the Site. Comparing the aerial photos taken in 2018 and 2019, there is no significant change to the surrounding landscape setting since the application was last approved. Noting that there is no substantial change in the layout of the development, further significant adverse impact to landscape resources within the Site arising from the development is not anticipated.
- (d) Approval condition on maintaining the existing trees and landscape plantings within the Site in a healthy condition at all times should be included.
- (e) The applicant is reminded that approval of the planning application under Town Planning Ordinance does not imply approval of tree preservation/ removal scheme under the Lease. The applicant should seek comments and approval from the relevant authority on the proposed tree works and compensatory planting proposal, where appropriate.

### **Drainage**

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

- (a) He has no objection in principle to the development. Presumably, the applicant would maintain the same drainage facilities as those implemented under previous application No. A/YL-KTN/577. The applicant should inform relevant department if the drainage arrangement has been changed.



- (b) Should the application be approved, approval conditions requiring the maintenance of the drainage facilities implemented under Application No. A/YL-KTN/577 and the submission of records of the existing drainage facilities on-site should be included.

### **Fire Safety**

#### 10.1.8 Comments of the Director of Fire Services (D of FS):

He has no in-principle objection to the renewal application subject to the existing fire service installations (FSIs) implemented on the Site being maintained in efficient working order at all times.

### **Building Matters**

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

- (a) There is no record of approval by the Building Authority for the existing structures at the Site. He is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of BD, they are unauthorized building works (UBW) under the BO and should not be designated for any proposed use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (d) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of BD should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with

Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.

- (f) If the Site does not abut on a specified street of not less than 4.5 m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

### **Food and Environmental Hygiene**

10.1.10 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. Any animal carcass/ parts shall be properly wrapped or bagged before disposal and in accordance with the relevant legislation. Also, for any waste generated from the activities in the premises, the applicant should handle on their own / at their expenses.
- (b) Proper licence/ permit issue by his department 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 any other relevant legislation for the public and the operation of any business should not cause any obstruction.

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

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

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

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Director of Electrical and Mechanical Services;
- (c) Project Manager (West), Civil Engineering and Development Department; and
- (d) Commissioner of Police.

## **11. Public Comment Received During Statutory Publication Period**

On 17.11.2020, the application was published for public inspection. During the three-week statutory publication period, no public comment was received.

## **12. Planning Considerations and Assessments**

- 12.1 The application is for renewal of planning permission for temporary animal boarding establishment for a period of 3 years in “AGR” zone. The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish pond for agricultural purpose, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The applied use is not entirely in line with the planning intention of the “AGR” zone. Nevertheless, DAFC has no strong view against the application. It is considered that temporary approval of the application will not frustrate the long-term planning intention of the “AGR” zone.
- 12.2 The applied use is considered not incompatible with the surrounding area which is rural in character intermixed with residential structures/dwellings, cultivated agriculture land and vacant/unused land. Although there are residential dwellings/structures in the vicinity of the Site (the nearest one on the immediate west) (**Plan A-2**), the applicant advises that all the dogs will be kept within the enclosed structures during 6pm to 10am. The structures are equipped with soundproofing material and mechanical ventilation. In addition, no public announcement system will be used at the Site. DEP has no adverse comment on the application.
- 12.3 The application is in line with TPB PG-No. 34C in that all the approval conditions of the last approved application (No. A/YL-KTN/577) have been complied with. Compared with the last approved application, the current application is the same in terms of use, floor area and layout. Besides, there is no major change in planning circumstances since the last approval.
- 12.4 Relevant departments consulted including C for T, DEP, CE/MN of DSD, D of FS and CTP/UD&L of PlanD have no adverse comment on the application. To minimise any possible environmental nuisance, approval conditions restricting the operation hours, and prohibiting outdoor animal activities and 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, CTP/UD&L of PlanD and D of FS could be addressed by approval conditions (d) to (g) recommended in paragraph 12.2 below.
- 12.5 There are 36 similar applications within the same “AGR” zone. 35 similar applications were approved with conditions by the Committee between 2005 and

2020 as detailed in paragraph 7. The circumstances of the only rejected application are different from the current one. The approval of the current application is hence in line with the Committee's previous decisions.

12.6 No public comment was received during the statutory publication period.

### **13. Planning Department's Views**

13.1 Based on the assessments made in paragraph 12, the Planning Department has no objection to the temporary animal boarding establishment for a period of 3 years.

13.2 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 and be renewed from 27.1.2021 to 26.1.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

#### Approval Conditions

- (a) no operation between 6:00pm and 10:00am (except overnight animal boarding), as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Wednesday (except overnight animal boarding), as proposed by the applicant, is allowed on the Site at all times during the planning approval period;
- (c) all animals shall be kept inside the enclosed structures on the Site between 6:00pm and 10:00 a.m., as proposed by the applicant, at all times during the planning approval period;
- (d) no public announcement system, portable loudspeaker, 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;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) existing trees and landscape plantings at the Site shall be maintained at all times during the planning approval period;
- (g) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of a record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 27.4.2021;

- (i) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (j) if any of the above planning condition (a), (b), (c), (d), (e), (f), (g) or (i) 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 the above planning condition (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
- (l) 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.

*[The above approval conditions are similar to those in the planning approval of the last Application No. A/YL-KTN/577, except those on landscape, drainage and FSIs are revised based on CTP/UD&L of PlanD's, CE/MN of DSD's and D of FS's comments.]*

#### Advisory Clauses

The recommended advisory clauses are attached at ~~Appendix VI~~ **Appendix IV**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

there is no strong reason to reject the renewal application.

#### **14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for the renewal of the planning approval.
- 14.2 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.
- 14.3 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.

**15. Attachments**

<b>Appendix I</b>	Application form with plan received on 9.11.2020
<b>Appendix Ia</b>	FI received on 27.12.2020, 29.12.2020 and 30.12.2020
<b>Appendix II</b>	Previous applications covering the Site
<b>Appendix III</b>	Similar Applications for the same use within the same “AGR” zone in the Kam Tin North OZP
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and 4b</b>	Site Photos

**PLANNING DEPARTMENT  
JANUARY 2021**