

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

**APPLICATION NO. A/YL-KTN/740**

- Applicant** : Mr. Chan Ho Pang
- Site** : Lot 64 RP in D.D. 110, Kam Tin North, Yuen Long
- Site Area** : About 735 m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Animal Boarding Establishment 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 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 vacant and covered with vegetation (**Plans A-2 to A-4**).
- 1.2 The proposed development involves three 1-2 storeys structures with a total floor area of about 372.66m<sup>2</sup> and building height not exceeding 6m for animal boarding establishment and site office. The business hours are from 10:00a.m. to 6:00p.m. from Monday to Saturday (no operation on Sunday and public holidays) with 24 hours animal boarding services. Not more than 30 animals will be accommodated at the Site. According to the applicant, no public announcement system and whistle blowing will be used at the Site. All animals will be kept indoor after business hours and the structures for animal boarding establishment will be enclosed with soundproofing materials and provided with mechanical ventilation and air-conditioning system. No parking and loading/unloading space will be provided within the Site. The Site is accessible from Kong Tai Road. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following document:

- (a) Application form received on 10.11.2020 **(Appendix I)**
- (b) Further Information (FI) received on 29.12.2020, 30.12.2020 and 31.12.2020 in response to departmental comments **(Appendix Ia)**  
*[exempted from publication requirement]*

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

The justification put forth by the applicant in support of the application is detailed in the application form and FI at **Appendices I to Ia**, and is briefly summarized as follows:

There is demand for animal boarding establishment in Hong Kong. The Site is currently a piece of abandoned land away from residential structures/dwellings. The proposed development can better utilize land resources and will not affect the surrounding residents.

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

The applicant is not the “current land owner” but has complied with the requirement 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 notice at the Site, sending registered mail to the Kam Tin Rural Committee and notifying the land owner in person (i.e. manager of the Tso/Tong). Detailed information would be deposited at the meeting for Members’ inspection.

## **4. Background**

The Site is currently not subject to any active planning enforcement action.

## **5. Previous Application**

The Site is not the subject of any previous application.

## **6. Similar Applications**

- 6.1 There are 37 similar applications for temporary animal boarding establishment involving 25 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 36 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.

*36 Approved Applications*

- 6.3 36 applications at 24 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.
- 6.4 Apart from the above processed similar applications, Application No. A/YL-KTN/739 for renewal of planning approval for temporary animal boarding establishment for a period of 3 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 vegetation; and
- (b) accessible from Kong Tai Road.

7.2 The surrounding area is rural in character predominated by residential structures/dwellings, cultivated agricultural land, open storage yards and vacant/unused land:

- (a) to the immediate north and further northeast is vacant/unused land;
- (b) to the east and west are residential dwellings/ structures (the nearest on the immediate west), open storage yard, cultivated agricultural land and vacant land; and
- (c) to its south across Kong Po Road and a nullah are residential structures/ dwellings, unused/ vacant land and open storage yard.

**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 Department**

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 of 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 planning approval be given to the planning application, the lots 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):

Considering that there is neither parking provision nor vehicular access to the lot and the induced traffic impact is minimal, he has no comment on the application.

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

It is noted that there is and will be no vehicular access to/from the Site. He has no comment on the application from highways maintenance point of view.

### **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) 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 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.”
- (c) 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.

## **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 form landscape planning perspective.
- (b) Based on the aerial photo taken on 18.2.2020, the Site is situated in an area of rural landscape character comprising scattered tree groups, temporary structures, village houses, active and abandoned farmlands. Referring to the applicant’s submission, one two-storey and two one-storey structures are proposed with the Site. With the scale and proposed use of the development, it is

considered not incompatible with the surrounding landscape setting.

- (c) Referring to his site visit dated 20.11.2020, the Site is vacant and covered with self-seeded vegetation. A number of invasive species *Leucaena leucocephala* (銀合歡) are found within the Site. Significant adverse impact to landscape resources within the Site arising from the proposed development is not anticipated.
- (d) 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.

### **Agriculture and Nature Conservation**

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

- (a) The Site is currently an abandoned land. The 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 potential for agricultural rehabilitation, the application is not supported from agricultural point of view.
- (b) The Site does not associate with any licence 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. The applicant should also be reminded that the establishment and ancillary facilities which is licensed under the Cap. 139I Public Health (Animals) (Boarding Establishment) Regulations must always fulfil the criteria listed in the Regulations. On the other hand, the animals kept by the applicant should also be properly licensed as in accordance with Cap. 421 Rabies Ordinance and he is reminded to observe Cap. 169 Prevention of Cruelty to Animals Ordinance at all times.
- (c) The Kam Tin River is located to the south of the Site. Should the application be approved, the applicant shall be reminded to avoid polluting the nearby watercourse from the proposed use.

### **Drainage**

9.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services

Department (CE/MN of 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, the conditions requiring the submission (including how to preserve the two existing water courses flowing from north to south at the middle and eastern side of the Site and overland flow from the adjacent catchment areas as collected by the aforesaid watercourses), implementation and maintenance of a drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning approval.

### **Building Matters**

9.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW of 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 Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings ordinance (BO). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing 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.
- (c) 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.
- (d) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.
- (e) Any temporary shelters or converted containers for office, storage, washroom or other uses are considered as temporary buildings are subject to the control of Part VII of the B(P)R.
- (f) If the proposed use under application is subject to issue of a license, the applicant should be reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant

requirements as may be imposed by the licensing authority.

- (g) Detailed checking under the BO will be carried out at building plan submission stage.

### **Fire Safety**

9.1.9 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 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 (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **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. 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**

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



He has not received any comments from the locals and has no comments on the application.

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

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

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

On 17.11.2020, the application was published for public comments. During the three-week statutory publication period, five comments (**Appendices III-1 to III-5**) were received from the Hong Kong Bird Watching Society, Kadoorie Farm & Botanic Garden Corporation, Designing Hong Kong Limited, a local villager and individual. The comments object to the application mainly on the grounds that the proposed use is not in line with the planning intention of the “AGR” zone; approval of the application would set an undesirable precedent in the “AGR” zone; there is no information on the applicant’s status and suitability to take care for animals; the proposed use will cause adverse sewerage, drainage and environmental impacts; the Site is close to residential structures/dwellings and the proposed use would cause noise and odor nuisance to the surrounding residents.

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

11.1 The application is for proposed temporary animal boarding establishment for a period of 3 years at 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 agricultural point of view as the Site possesses potential for agricultural rehabilitation. However, approval of the application on a temporary basis for a period of 3 years would not jeopardize the long-term planning intention of the “AGR” zone.

11.2 The proposed use is considered not incompatible with the surrounding area which is rural in character intermixed with residential structures/dwellings, cultivated agricultural land and vacant/unused land. Although there are residential dwellings/structures in the vicinity of the Site (the nearest in the immediate west) (**Plan A-2**), the applicant advises that all the animals will be kept within the enclosed structures between 6:00p.m. and 10:00a.m.. The structures will be equipped with soundproofing material and mechanical ventilation and air conditioning. In addition, no public announcement system and whistle blowing will be used at the Site. 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 (d) 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 CE/MN of DSD and D of FS could be addressed by approval conditions (e) to (i) recommended in paragraph 12.2 below.

- 11.4 The Site is not subject to any previous application. 36 similar applications for temporary animal boarding establishment on 24 sites were approved with conditions by the Committee between 2005 and 2020 as stated in paragraph 6 above. 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.
- 11.5 Five public comments were received during the statutory publication period, objecting to the application as stated 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 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 8.1.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) no operation between 6:00p.m. and 10:00a.m. (except overnight animal boarding), as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays (except overnight animal boarding), as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) all animals shall be kept inside the enclosed animal boarding establishment on the Site between 6:00p.m. and 10:00a.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) 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 8.7.2021;
- (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 8.10.2021;
- (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 8.7.2021;
- (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 8.10.2021;
- (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 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.

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.

#### Advisory Clauses

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

**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 received on 10.11.2020
<b>Appendix Ia</b>	FI dated 29.12.2020, 30.12.2020 and 31.12.2020
<b>Appendix II</b>	Similar applications within the same “AGR” zone on the Kam Tin North OZP
<b>Appendices III-1 to III-5</b>	Public comments received during the statutory publication period
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan with Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4</b>	Site Photos

**PLANNING DEPARTMENT  
JANUARY 2021**