

RNTPC Paper No. A/YL-KTS/868  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 8.1.2021

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

**APPLICATION NO. A/YL-KTS/868**

<b><u>Applicant</u></b>	: Mr. Chan Sze Yu represented by Metro Planning and Development Company Limited
<b><u>Site</u></b>	: Lots 706 (Part), 711 (Part), 712 (Part), 713 RP (Part), 716 (Part), 717 (Part) and 718 S.A (Part) in D.D.113 and Adjoining Government Land, Ma On Kong, Kam Tin, Yuen Long
<b><u>Site Area</u></b>	: About 1,020 m <sup>2</sup> (including Government Land of about 6 m <sup>2</sup> (0.6%))
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: Proposed Temporary Animal Boarding Establishment (Dog Kennel) 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) for a period of 3 years. According to the Notes of the OZP, ‘animal boarding establishment’ is a Column 2 use in “AGR” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant with some vacant structures.
- 1.2 According to the applicant, the proposed development involves three 1-storey structures (about 3.5m to 4m in height) with a total floor area of about 320m<sup>2</sup> for dog kennel, dog washing facility and portable toilets. Four private car parking spaces will be provided within the Site. The proposed development will operate between 9a.m. and 7p.m. daily. Not more than 8 dogs will be accommodated at the Site. All dogs will be kept within the enclosed structures with soundproofing

materials and mechanical ventilation and air-conditioning system. The dogs will leave the Site after the operation hours. No public announcement system and blowing of whistle will be used at the Site. The Site is accessible from Kam Ho Road via a local access. 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 supplementary information received on 13.11.2020 **(Appendix I)**
- (b) Further Information (FI) received on 24.12.2020 providing response to departmental comments **(Appendix Ia)**  
*[exempted from publication requirement]*
- (c) FI received on 28.12.2020 providing responses to departmental comments **(Appendix Ib)**  
*[exempted from publication requirement]*

## **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 at **Appendices I to Ib**. They can be summarized as follows:

- (a) The proposed development is temporary in nature and it would not jeopardize the long-term planning intention of “AGR” zone. The scale of the proposed development is not incompatible with the surrounding environment. Similar applications were approved in the “AGR” zone within the same OZP.
- (b) There will be insignificant environmental and drainage impact. The dog kennel will be maintained in a sanitary condition and contain means for removal and disposal of animal and food waste, etc. to minimize infestation, contamination, odours and disease hazards.
- (c) The applicant will follow the relevant mitigation measures and requirements as shown in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The effluent discharges from the proposed use are subject to control under the Water Pollution Control Ordinance (WPCO) and a discharge licence under the WPCO would be obtained before a new discharge is commenced.
- (d) No site formation is proposed. The vehicle manoeuvring and parking spaces and remaining area will be landscaped with short grass.

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

The applicant is not a “current land owner” of the private land portion of the Site 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 notices to Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land portion, the “owner’s consent/notification” requirement is not applicable.

**4. Background**

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

**5. Previous Application**

The Site is not subject to any previous planning application.

**6. Similar Application**

There is no similar application for animal boarding establishment within the same “AGR” zone.

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

7.1 The Site is:

- (a) currently paved, vacant with some vacant structures; and
- (b) accessible from Kam Ho Road via a local access.

7.2 The surrounding areas are rural in character predominated with open storage/ storage yards, vacant and unused land, pigsty and cultivate agricultural land:

- (a) to its east, west and south are storage/open storage yards, vacant/unused land, residential structures/dwellings (the nearest about 20m to the west of the Site), pigsty and cultivated agricultural land; and
- (b) to its north are unused land, open storage yards, pigsty and a residential dwelling/structure.

## **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 Government Land (GL) and Old Schedule Agricultural Lots 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) No permission is given for occupation of GL (about 6m<sup>2</sup> subject to verification) included in the Site. Any occupation of GL without Government’s prior approval is not allowed.
- (c) Should the planning approval be given to the planning application, 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. Furthermore, the applicant has to either exclude the GL from the Site or obtain a formal approval prior to the actual occupation of the GL. 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, the approval condition that 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 Kam 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 an environmental complaint related to air and noise at a plastic open recycling yard at the Site in 2018.
- (b) 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:

No dog shall be stayed at the Site after operation hours (i.e. 7:00pm to 9:00am) as proposed by the applicant; and

No public announcement system, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site.

- (c) Moreover, the applicant is also advised (i) to 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 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 and construction shall follow the requirements of Environmental Protection Department (EPD)'s Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" 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) Based on the aerial photo taken on 28.2.2020, the Site is situated in an area of rural landscape character comprising scattered tree groups, temporary structures and abandoned farmlands. The proposed development is not entirely incompatible to the surrounding landscape character of the area. It is noted that no similar application of temporary animal boarding use within the “AGR” zone in proximity to the Site was approved.
- (b) Referring to site visit dated 26.11.2020, the Site is mostly vacant and hard paved. No existing vegetation is found within the Site. Significant adverse impact on the existing landscape resources arising from the proposed use within the Site is not anticipated. However, in comparing with the aerial photos taken in 2007 and 2008, it is noted that the vegetation within the Site has been cleared and hard paved since 2007. There is concern that approval of the application may set an undesirable precedent for similar application, encouraging more unauthorized site alteration within the area. The cumulative impact of such

approval may further degrade the landscape quality of the “AGR” zone.

### **Agriculture**

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

- (a) The Site is currently a vacant land with a temporary structure. Although the agricultural activities are not active in the vicinity, agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as greenhouses, plant nurseries, etc. As the Site possesses a potential for agricultural rehabilitation, the application is not supported from agricultural point of view.
- (b) The subject address does not associate with any licence granted by his department, nor has he received any application regarding the address. 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 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 dogs 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.

### **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) He has no adverse comment on the submitted drainage proposal. The applicant should note the following:
  - (i) The applicant should implement the drainage facilities on site in accordance with the agreed drainage proposal.

- (ii) The applicant is required to rectify the drainage system if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by a failure of the drainage system.
  - (iii) The proposed development would neither obstruct overland flow nor adversely affected any existing natural streams, village drains, ditches and the adjacent areas.
  - (iv) The applicant should consult DLO/YL —~~Distriet Officer/Yuen Long~~ and seek consent from relevant lot owners for any works to be carried out outside his lot boundary before commencement of the drainage works.
- (c) Should the application be approved, approval conditions requiring the implementation and maintenance of the accepted drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.

### **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) As there is no record of approval granted by the Building Authority (BA) 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 the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (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 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.
- (d) 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 BA 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) 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.
- (g) Any temporary shelters or converted container 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.
- (h) 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.

- (i) 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) 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.
- (b) 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, the applicant should handle on their own/at their expenses.
- (c) Any animal carcass / parts shall be properly wrapped or bagged before disposal.

### **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~~he has no particular comment on the application. ~~and~~

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

On 20.11.2020, the application was published for public inspection. During the three-week statutory publication period, three public comments from the World Wide Fund for Nature Hong Kong, Designing Hong Kong and an individual (**Appendices II-1 to II-3**) were received objecting to the application mainly on the grounds that the proposed development is not in line with the planning intention; it may be subject to “destroy first, built later” case; approval of the application would set an undesirable precedent for other applications within the “AGR” zone; the proposed development would generate toxic waste to nearby stream; and there is no information about the applicant’s status and suitability with regarding to caring for animals.

## 11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary animal boarding establishment (dog kennel) 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. DAFC does not support the application from the ~~agriculture~~ agricultural point of view as the Site possesses potential for agricultural rehabilitation. Nevertheless, it is considered that 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 area which is rural in character intermixed with residential structures/dwellings ~~(the nearest one about 20m to the west)~~, pigsty, cultivated agricultural land and vacant land. Although there are residential structures/dwellings in the vicinity of the Site (the nearest one about 20m to the west) (Plan A-2), ~~The applicant has~~ advised that all dogs will be kept inside the enclosed structures with soundproofing material and equipped with mechanical ventilation and air conditioning. ~~In addition, Also,~~ no public announcement system and whistle blowing will be used at the Site. All dogs will leave the Site after operation hour. DEP has no adverse comment on the application.
- 11.3 ~~Other Relevant~~ departments consulted, including C for T, DEP, D of FS and CE/MN of DSD ~~(except DAFC)~~ have no adverse comment on the application. While CTP/UD&L of PlanD raised concern that approval of the application may set an undesirable precedent for similar application, encouraging more unauthorized site alteration within the area and the cumulative impact of such approval may further degrade the landscape quality of the “AGR” zone, she considers the proposed development is not entirely incompatible to the surrounding landscape character of the area and significant adverse impact on the existing landscape resources arising from the proposed use is not

anticipated. 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 There is no previous application and no similar application for the same use within the same "AGR" on the OZP.
- 11.5 Three public comments were received during the statutory ~~public inspection~~ publication period objecting to the application as stated in paragraph 10 above. In this regard, the above departmental comments as well as planning considerations and assessments 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, the Planning Department has no objection to the proposed temporary animal boarding establishment (dog kennel) 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 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 loudspeaker, any form of 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 implementation of the accepted 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 implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) 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;
- (h) in relation to (g) 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;
- (i) if any of the above planning conditions (a), (b), (c), (d) or (f) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (j) if any of the above planning conditions (e), (g) or (h) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (k) upon 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 III**.

- 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 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**

<b>Appendix I</b>	Application form with planning statement received on 13.11.2020
<b>Appendix Ia</b>	FI received on 24.12.2020
<b>Appendix Ib</b>	FI received on 28.12.2020
<b>Appendices II-1 to II-3</b>	Public Comments
<b>Appendix III</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 to 4b</b>	Site Photos

**PLANNING DEPARTMENT  
JANUARY 2021**