

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

APPLICATION NO. A/YL-PS/588

- Applicant** : Cheng Wing Sze
- Site** : Lots 377 (Part), 383 (Part) and 384 (Part) in D.D. 122 and adjoining Government Land, 250 Sheung Cheung Wai, Ping Shan, Yuen Long, New Territories
- Site Area** : About 790 m² (including about 208 m² Government Land)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/18
- Zoning** : “Village Type Development” (“V”) (about 99.3%)
[Restricted to maximum building height of 3 storeys (8.23m)]
- “Other Specified Uses” annotated “Heritage and Cultural Tourism Related Uses” (“OU(HCTRU)”) (about 0.7%)
[Restricted to maximum plot ratio of 0.4 and maximum building height of 10mPD]
- Application** : Temporary Animal Boarding Establishment, Dog Recreation Centre and Shop and Services (Pet Supplies Retail Shop) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary animal boarding establishment, dog recreation centre and shop and services (pet supplies retail shop) for a period of 3 years at the application site (the Site) (**Plan A-1**). The Site is currently used for the applied use without valid planning permission.
- 1.2 The Site falls within an area zoned “V” (about 99.3%) with a minor portion zoned “OU(HCTRU)” (about 0.7%) on the approved Ping Shan OZP No. S/YL-PS/18 (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. The applicant is currently seeking temporary permission for a period of 3 years.

1.3 The major development parameters of the current application are as follows:

Site area	About 790 m ²
Total floor area	About 269.21 m ²
No. of structures	2 <ul style="list-style-type: none">• Animal boarding, grooming area, shop, kitchen and staff room• Covered area for grooming area and exercise area
Height of structures	1 storey (3m)
No. of parking space	Nil
No. of loading/ unloading bay	Nil
Operation Hours	10:00 a.m. to 6:00 p.m. daily

1.4 The lot index plan and floor plan are at **Drawings A-1 and A2** respectively.

1.5 According to the floor plan (**Drawing A-2**), two 1-storey structures are proposed on site for animal boarding, grooming, shop, kitchen, exercise area and staff room. Majority of the open area of the Site is used for waiting area, swimming pool and planters.

1.6 According to the applicant, the Site is not involved in animal breeding and dog training. The Site provides accommodation for not more than 20 cats and/or dogs. There are 4 nos. of staff. The structure is equipped with ventilation system and air conditioning. The kennels are enclosed with sound proofing materials. No dog will stay outdoor between 6 p.m. and 10 a.m. No public announcement system and whistle blowing will be used to minimise noise impact.

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

- (a) Application form received on 15.4.2019 with supplementary justifications and information and replacement pages **(Appendix I)**
- (b) Email of 8.5.2019 providing replacement page of the application form **(Appendix Ia)**
(accepted and exempted from publication and recounting requirements)

2. Justifications from the Applicant

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

- (a) The development has operated for more than 12 years to provide a quality environment and facilities for the pets in the area and a temporary shelter for the abandoned animals waiting for adoption.

- (b) The Site is a dog hotel and has obtained Boarding Establishment License from the Agriculture, Fisheries and Conservation Department (AFCD).
- (c) The Site is conveniently located and is about 1 minute from the Tin Shui Wai West Rail Station.

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 posting site notice and sending notice to the Ping Shan Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is subject to planning enforcement action against unauthorised development (UD) involving use for animal boarding establishment and use for shop and services. Enforcement Notice (EN) was issued on 12.2.2019 requiring discontinuation of the UD. As site inspection on 15.5.2019 revealed that the UD still continued upon expiry of the EN, prosecution action may be followed.

5. Previous Application

There is no previous application covering the Site.

6. Similar Application

There is no similar application in the same “V” and “OU(HCTRU)” zones.

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

7.1 The Site is:

- (a) currently used as an animal boarding establishment, dog recreation centre and shop and services; and
- (b) accessible from Tsui Sing Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate north is a temple, real estate agency and car servicing which are suspected UD’s. To the northeast is Tat Tak Communal Hall which is a declared monument, temporary public vehicle park with planning permission under application No. A/YL-PS/561 and temporary eating place with planning permission under application No. A/YL-PS/576;
- (b) to the immediate east and south are residential dwellings;

- (c) to the further south is Tsui Sing Lau Pagoda which is a declared monument, a restaurant which is suspected UD, and temporary public vehicle parks with planning permissions under application Nos. A/YL-PS/522, 554 and 562; and
- (d) to the west across Tsui Sing Road is Tin Shui Wai West Rail Station.

8. Planning Intention

The planning intention of “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

9.1 The following Government Departments have been consulted and their views on the application and the public comments are summarised as follows:

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lots and an Old Schedule Lot of agricultural status and house status. The Old Schedule Agricultural Lots were 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 government land (GL) (about 208m² subject to verification) included in the Site. Attention is drawn to the fact that any occupation of GL without Government’s prior approval is not allowed.
- (c) Lot No. 384 in D.D. 122 within the Site is covered by Short Term Waiver (STW) No. 3170 to permit structures erected thereon for the purpose of “Private Residential”.
- (d) The Site is accessible from Tsui Sing Road via GL. His office does not provide maintenance work for GL involved and does not guarantee any right-of-way over the GL to the Site.

- (e) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (f) Should planning approval be given to the planning application, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate and the lot owner(s) of the lot(s) without STW will need to apply to his office to permit the structures to be erected or regularise any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Furthermore, the applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Applications for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among other the payment of premium or fee, as may be imposed by the LandsD.
- (g) There is no Small House application received or approved at the Site. In its vicinity (within 30m), 9 Small Houses applications have been approved.

Traffic

9.1.2 Comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD)

He has no adverse comment on the application from traffic engineering point of view.

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

- (a) The access arrangement should be commented by TD.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) Currently, only the section of Tsui Sing Road of about 120m abutting Ping Ha Road is maintained by HyD. HyD shall not be responsible for the maintenance of any access connecting the Site and the section of Tsui Sing Road being maintained by HyD.

9.1.4 Comments of the Chief Engineer/Railway Development 2-2 (CE/RD 2-2), HyD:

The Site falls within the protection boundary of the West Rail Line. As the operation of the existing railway system is not under the jurisdiction of his office, he has no comments on the subject from railway development viewpoint. However, with reference to the procedures in PNAP APP-24, MTR Corporation Limited (MTRCL) should be consulted with respect to operation, maintenance, safety and future construction of the existing railway network.

9.1.5 Comments from the MTRCL:

- (a) The Site falls within the West Rail Protection Boundary, all works shall comply with the requirements as stated in the Environment, Transport and Works Bureau Technical Circular (Works) No. 33/2003 or PNAP APP-24 whichever is applicable for MTR protection.
- (b) For any works that involve lifting appliances adopted on site, they shall be positioned as far as possible away from the West Rail tracks/structures. MTR's prior agreement on the locations of these lifting appliances before their operations on site shall be sought.

Environment

9.1.6 Comments of the Director of Environmental Protection (DEP):

- (a) According to the applicant, the operation hours are from 10 a.m. to 6 p.m. daily. All animals will be kept inside the sound-proofed structures for animal boarding establishment after the operation hours. Public announcement system and whistle blowing will not be allowed at the Site.
- (b) Based on the above, the applicant is advised to properly design and maintain the facilities, e.g. the structures for animal boarding establishment should be enclosed by proper soundproofing materials and provided with 24-hour mechanical ventilation and air-conditioning system, and follow the relevant mitigation measures and requirements in the revised "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" ("COP") to minimise any potential environmental nuisances. Suitable mitigation measures should also be implemented to minimise potential odour nuisance.
- (c) Moreover, effluent discharges from the proposed use are subject to control under the Water Pollution Control Ordinance (WPCO) and a discharge licence under the WPCO shall be obtained. If septic tank and soakaway

system is adopted, its design and construction should follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department”.

- (d) There was no environmental complaint pertaining to the Site received in the past 3 years.

Landscape

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

With reference to the aerial photo of 2018, it is observed that the Site is hard paved and approximate half of the Site is occupied by a large temporary structure. Existing vegetation and shrubs are observed to the west of the Site. The Site is situated in an urban fringe landscape character. Significant change to the landscape character arising from the application is not envisaged.

Drainage

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

He has no objection in principle to the proposed application from a drainage point of view. Should the Board consider that the application is acceptable from the planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

Fire Safety

- 9.1.9 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection to the proposal subject to fire service installations (FSIs) being provided to the satisfaction of Director of Fire Services.
- (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.
- (c) 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.

- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire services requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) As 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 the BD, they are unauthorised 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 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 the BD should be obtained, otherwise they are UBW. An Authorised Person (AP) 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 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.
- (g) 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.

Others

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

- (a) Noting that the Site is paved or disturbed, he has no comment on the application from nature conservation point of view.
- (b) Under the current legislation, 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 subject address is associated with a Boarding Establishment Licence which has been renewed and will expire on 4.3.2020.

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

- (a) No Food and Environmental Hygiene Department's (FEHD) facilities will be affected and such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding.
- (b) Proper licence/permit issued by FEHD is required if there is any catering service/activities regulated by the Director of Food and Environmental Hygiene under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.
- (c) For any waste generated from such activity/operation, the applicant should arrange disposal properly at their own expenses.
- (d) Any animal carcass/parts shall be properly wrapped or bagged before disposal.

District Officer's Comments

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

His office has not received any feedback from locals.

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

- (a) Executive Secretary (Antiquities & Monuments), Antiquities and Monuments Office (ES(A&M), AMO);
- (b) Project Manager (West), Civil Engineering and Development

- Department (PM(W), CEDD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
 - (d) Director of Leisure and Cultural Services (DLCS);
 - (e) Director of Electrical and Mechanical Services (DEMS); and
 - (f) Commissioner of Police (C of P).

10. Public Comment Received During the Statutory Publication Period

On 30.4.2019, the application was published for public inspection. During the first 3 weeks of the statutory public inspection periods, which ended on 21.5.2019, one public comment was received (**Appendix II**). An individual expressed concerns on the surrounding built heritage setting, caring of animals and licensing of the facility.

11. Planning Considerations and Assessments

- 11.1 The subject application is for temporary animal boarding establishment, dog recreation centre and shop and services (pet supplies retail shop) for a period of 3 years at a site mainly zoned “V” (99.3%) on the OZP. The planning intention of the “V” zone is primarily intended for development of Small House by indigenous villagers. Whilst the development is not entirely in line with the planning intention of the “V” zone, according to the DLO/YL, LandsD, there is no Small House application approved or under processing at the Site. Approval of the application on a temporary basis will not frustrate the planning intention of the “V” zone.
- 11.2 The Site is located at the fringe of “V” zone and is directly abutting to a local access connecting to Tsui Sing Road immediately to the east of Tin Shui Wai West Rail Station. The Site is mainly surrounded by residential dwellings and temporary public vehicle parks (**Plan A-2**). The proposed development is not incompatible with the surrounding land uses. Although there are residential dwellings in the vicinity, the applicant stated that the structure is equipped with ventilation system and air conditioning. The kennels are enclosed with sound proofing materials. No dog will stay outdoor after operation/ business hours (between 6 p.m. and 10 a.m.). No public announcement system and whistle blowing will be used to minimise noise impact. DEP has no adverse comment on the application.
- 11.3 Relevant government departments, including DAFC, AC for T/NT of TD, CE/MN of DSD, CTP/UD&L of PlanD and DEP have no objection to or no adverse comments on the application. The proposed use will unlikely create significant adverse traffic, drainage and environmental impacts on the surrounding areas. There has been no environmental complaint concerning the Site received in the past 3 years. To minimise the possible environmental nuisances, approval conditions prohibiting outdoor activities and public announcement system and whistle blowing are recommended in paragraph 12.2 (a) to (c) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorised development on site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling the

Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise the possible environmental impacts on the nearby sensitive receivers. The technical requirements of CE/MN, DSD and D of FS on drainage and fire safety aspects could be addressed by imposing approval conditions (e) to (i) in paragraph 12.2 below.

- 11.4 There is one public comment expressed concerns on the surrounding built heritage setting, caring of animals and licensing of the facility as summarised in paragraph 10. DAFC advised that the Site is associated with a valid Boarding Establishment Licence which was issued under the current legislation. Besides, the planning considerations and assessments in paragraphs 11.1 to 11.3 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11, the Planning Department considers that the temporary animal boarding establishment, dog recreation and shop and services (pet supplies retail shop) could be tolerated 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 **31.5.2022**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 10:00 a.m. (except overnight animal boarding), as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) all animal shall be kept inside the enclosed animal boarding establishment from 6:00 p.m. to 10:00 a.m., as proposed by the applicant, during the planning approval period;
- (c) no public announcement system and whistle blowing, as proposed by the applicant, is allowed to be used on the Site during the planning approval period;
- (d) the existing fencing on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of a drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 30.11.2019;
- (f) in relation to (e) above, the implementation of the drainage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 29.2.2020;

- (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 the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 30.11.2019;
- (i) in relation to (h) above, the implementation of fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 29.2.2020;
- (j) if any of the above planning conditions (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; and
- (k) if any of the above planning conditions (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.

Advisory clauses

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

12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the planning intention of "V" zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. The development is not in line with the planning intention of the "V" zone. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis; and
- (b) the approval of the application, even on a temporary basis, would set an undesirable precedent for other similar applications to proliferate into the "V" zone.

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 received on 15.4.2019 with supplementary justifications and information and replacement pages
Appendix Ia	Email of 8.5.2019 providing replacement page of the application form
Appendix II	Public comment received during the statutory publication period
Appendix III	Advisory Clauses
Drawing A-1	Lot Index Plan
Drawing A-2	Floor Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
MAY 2019**