

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

APPLICATION NO. A/YL-TT/460

- Applicant** : Ms. Manyi TSANG
- Site** : Lots 24 RP (Part), 26 RP (Part) and 28 RP (Part) in D.D. 118 and Adjoining Government Land (GL), No. 169B, Tai Tong Road, Hung Tso Tin Tsuen, Yuen Long, New Territories
- Site Area** : 470 m² (about) (including about 80m² of GL)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16
- Zoning** : “Village Type Development” (“V”)
[Restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Renewal of Planning Approval for Temporary “Dog Hotel” for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary “dog hotel” use for a further period of 3 years at the application site (the Site) (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or building 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 (i.e. the subject animal boarding establishment use within the “V” zone). The Site is currently occupied for the applied use and covered by a valid planning permission under application No. A/YL-TT/375 with validity up to 22.4.2019 (**Plans A-2, A-4a to A-4c**).
- 1.2 The Site was the subject of 3 previous planning applications (No. A/YL-TT/230, 308 and 375) for temporary animal boarding establishment and dog hotel uses. The last application for dog hotel use was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board for a period of 3 years on 22.4.2016 with validity up to 22.4.2019. All the time-limited approval conditions of the last application had been complied with. Details of the previous

applications are at paragraph 6 below and **Appendix III**. Compared with the last application (No. A/YL-TT/375), the current application is submitted by the same applicant for the same applied use on the same site with the same layout, same development parameters and same operation hours and for the same applied period (i.e. 3 years).

- 1.3 The major development parameters of the previously approved application are the same as the current application, which are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TT/375	Current Application No. A/YL-TT/460
Applied Use	Temporary Dog Hotel for a Period of 3 Years	
Site Area	About 470 m ² (including about 80m ² of GL)	
Total Floor Area (Non-domestic)	About 149m ²	
No. of Structures	4 (kennel areas for animal boarding, animal indoor exercising area cum office/reception/toilet and animal grooming uses)	
Height of Structures	2.7m to 4.5m (1 storey)	
Parking Spaces	Nil	
Loading/ Unloading Spaces	Nil	
Operation Hours	8:45 a.m. to 6:30 p.m. on Mondays to Fridays 9:00 a.m. to 6:30 p.m. on Saturdays 9:30 a.m to 7:00 p.m. on Sundays and Public Holidays	

- 1.4 The Site is accessible from Tai Tong Road to its east. The open areas of the Site are currently being used as an outdoor swimming pool and exercising/recreational area for dogs. According to the applicant, the operation would involve 6 staff members with not more than 48 dogs kept on site at any time. Double-glazing windows have been installed for the animal boarding facilities, which are fully ventilated. All dogs are to be kept inside the kennel during 6:30 p.m. to 9:00 a.m. daily. The facility, named Posh Paws Resort, is currently operating with a valid “Animal Boarding Establishment Licence” (licence) under the Public Health (Animals) (Boarding Establishment) Regulations granted by the Agriculture, Fisheries and Conservation Department (AFCD) with validity up to June 2019. The applicant endeavours to protect all trees immediately outside the Site and to maintain the existing drainage and sewage facilities at the Site. Plans showing the site layout and internal layouts submitted by the applicant are at **Drawings A-1 to A-3**.

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

- (a) Application Form with plans received on 25.2.2019 **(Appendix I)**
- (b) Supplementary Information received on 6.3.2019 **(Appendix Ia)** providing additional information

- (c) Further Information received on 3.4.2019 clarifying the building height of the structures and operation hours (Appendix Ib)
[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 in Part 9 of the Application Form at **Appendix I**, and supplementary information at **Appendices Ia and Ib**. They can be summarised as follows:

- (a) The Site was the subject of 3 previously approved applications (No. A/YL-TT/230, 308 and 375). The applicant wishes to continue to operate the dog hotel at the Site which has been operating with a valid licence issued by AFCDC since 2009. The applicant has complied with all the requirements of the Board and of the relevant government departments.
- (b) The applicant has taken steps to mitigate the potential impacts arising from the development, including the use of double-glazing windows and strict adherence to feeding times (not before 9:00 a.m. and not after 5:00 p.m) and outdoor activity times to minimise noise disturbance on the surrounding.
- (c) A fully functional sewage system and rainwater drain is in place and maintained at the Site since the approval of the previous applications. The water from the swimming pool is directed into settling tank approved by the Drainage Services Department (DSD). The drainage facilities on Site do not obstruct any overland flow or adversely affect existing watercourse, drain or ditch.
- (d) Fire safety appliances, including fire extinguishers, emergency lighting, directional and exit signs and fire alarm system, have been installed at the Site and maintained by the applicant.
- (e) No vehicular access and parking spaces are proposed at the Site. No vehicles are allowed to enter/be parked at the Site. Visitors and deliverers are expected to temporarily park their vehicles outside the Site when dropping off animals or deliveries.

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 Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting a notice of the application at the Site and sending the notice to Shap Pat Heung Rural Committee through registered post. 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. 34B) are relevant to the application. The relevant assessment criteria are attached at **Appendix II**.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site was involved in 3 previous applications (No. A/YL-TT/230, 308 and 375) for temporary animal boarding establishment and dog hotel uses submitted by the same applicant. Details of the applications are summarised at **Appendix III** and the location is shown on **Plan A-1**.
- 6.2 Application No. A/YL-TT/230 for temporary animal establishment (kennel) with ancillary dog recreational facilities was approved with conditions for a period of 3 years by the Board on review on 6.3.2009 mainly on considerations of the small scale of operation; that the proposed design and management would unlikely create adverse impacts on the surrounding areas; no local objections or adverse departmental comments were received; and that temporary approval of the application would not jeopardise the long-term planning intention of the “V” zone.
- 6.3 The last two applications (No. A/YL-TT/308 and 375) for temporary dog hotel was approved with conditions for a period of 3 years each by the Committee on 9.11.2012 and 22.4.2016 respectively mainly on similar considerations as in application No. A/YL-TT/230. All the time-limited approval conditions of the latest planning permission had been complied with as of today and the validity of which is up to 22.4.2019.
- 6.4 Compared with the last application (No. A/YL-TT/375), the current application is submitted by the same applicant for the same applied use on the same site with the same layout, same development parameters and same operation hours and for the same applied period (i.e. 3 years).

7. Similar Application

There is no similar application for animal boarding establishment use within the subject “V” zone.

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

8.1 The Site is:

- (a) abutting Tai Tong Road to its east (**Plan A-2**);

- (b) paved and fenced off; and
- (c) currently occupied for the applied use with valid planning permission.

8.2 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) comprises predominantly residential dwellings with scattered parking of vehicles, vehicle repair workshop, storage yard, retail shop for vehicle parts, orchard, public toilet, refuse collection point and vacant structures/land;
- (b) residential dwelling/structures are found in the vicinity of the Site with the nearest one located about 10m to the north; and
- (c) the parking of vehicles, vehicle repair workshop, storage yard and retail shop for vehicle parts in the vicinity of the Site are mostly suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

9. Planning Intention

The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within the zone is primarily intended for development of Small Houses by indigenous villagers and to concentrate village type development within the 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.

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 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 prior approval of the Government.
- (b) Within the Site, the private lots 24RP, 26RP and 28 RP in D.D. 118 are covered by Short Term Waiver (STW) No. 4681, 4682

and 4683 respectively which permits the structure(s) erected thereon for the purpose of 'temporary dog hotel'. The GL included in the Site is covered by Short Term Tenancy (STT) No. 3076 for the same purpose.

- (c) The Site is accessible from Tai Tong Road via GL. Her office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the subject planning application, the STW and STT holder(s) will need to apply to her office for modification of the STW/STT conditions where appropriate. 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. Applications for any of the above will be considered by her department acting in the capacity as 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 premium or fee, as may be imposed by her department.

Traffic

10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) Other than for pick up/drop off activities, stopping of vehicles along roadside for parking is not allowed. If the applicant considers that parking of vehicles is required for the applied use, the applicant should propose vehicular access and adequate number of car parking spaces in the application. The applicant should also reserve sufficient space within the Site for manoeuvring of vehicles.
- (b) The applicant is reminded that no parking, queuing and reverse movement of vehicles on public road are allowed.

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

- (a) He has no comment from highways maintenance point of view.
- (b) It is noted that no vehicular access is proposed or to be granted in the application. Should the application be approved, the approval is based on the understanding that there is and will not be vehicular access to/from the Site.

Environment

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

- (a) It is noted that the applicant has proposed mitigation measures similar to the previous applications, such as double glazing for kennel windows, keeping all dogs inside the kennel area from 6:30 p.m. to 9:00 a.m. daily, etc. As advised in the previous application (No. A/YL-TT/375), provided that the proposed mitigation measures are properly implemented, he maintains his previous view that the application could be tolerated.
- (b) The applicant is reminded that any discharge of wastewater arising from the site shall comply with the requirements stipulated under the Water Pollution Control Ordinance.
- (c) Should the planning application be approved, the applicant will be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site” (Code of Practice).
- (d) No substantiated environmental complaint concerning the Site was received in the past 3 years.

Animal Management

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

- (a) She has no objection to the application.
- (b) The Site is associated with a valid Boarding Establishment Licence granted by her department. The licence will expire on 25.6.2019.
- (c) If the applicant would like to continue the animal boarding business, she shall renew the Boarding Establishment Licence before it expires.

Drainage

10.1.6 Comments of the Chief Engineer/Mainland North, DSD (CE/MN, DSD):

- (a) He has no objection in principle to the proposed development.
- (b) Based on the information enclosed in the application (**Appendices I and Ia**), the applicant would maintain the same drainage facilities as those implemented under the previous planning application (No. A/YL-TT/375).

- (c) Should the Board consider that the planning application is acceptable from the planning point of view, approval conditions requiring the maintenance of the drainage facilities implemented under application No. A/YL-TT/375 and the submission of records of the existing drainage facilities on Site to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

10.1.7 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. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The applicant should be advised on the following points:
 - (i) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy.
 - (ii) The location of where the proposed FSIs 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

10.1.8 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 structures existing at the Site, he is not in position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant's attention is drawn to the following points:
 - (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of BD, they are unauthorised building works (UBW) under BO and should not be designated for any approved use under the application.

- (ii) 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 BO.
- (iii) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of BD should be obtained, otherwise they are UBW. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with BO.
- (iv) 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.
- (v) 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.

Environmental Hygiene

10.1.9 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 activity and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding.
- (b) For any waste generated from the such activity / operation, the applicant should arrange disposal properly at her own expenses.
- (c) Any animal carcass/ parts shall be properly wrapped or bagged before disposal.
- (d) Proper licence / permit issued by his department is required if there is any catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.

District Officer's Comments

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

His office has not received any comments from the village representatives in the vicinity regarding the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (c) Director of Electrical and Mechanical Services (DEMS); and
- (d) Commissioner of Police (C of P).

11. Public Comment Received During the Statutory Publication Period

On 8.3.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 29.3.2019, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The current renewal application is for proposed temporary dog hotel at a site zoned “V” on the OZP. The planning intention of the “V” zone is primarily to designate both existing recognised villages and areas of land considered suitable for village expansion and for development of Small Houses by indigenous villagers. While the proposal is not in line with the planning intention of the “V” zone, the proposed dog hotel could meet any such demand in the area. According to DLO/YL, LandsD, there is currently no Small House application approved/under processing at the Site. As such, approval of the application on a temporary basis of a further 3 years would not frustrate the long-term development of the area.
- 12.2 The subject development, involving 4 single-storey structures with a total floor area of about 149m², is relatively small in scale. The proposed development is not entirely incompatible with the surrounding area which comprises predominantly residential structures with some scattered vehicle parks, agricultural land, unused land and vacant structures (**Plan A-2**).
- 12.3 The current renewal application for a further 3 years is generally in line with TPB PG-No. 34B in that there has been no material change in planning circumstances since the granting of the previous approval under application No. A/YL-TT/375; all the approval conditions have been complied with as of today; and the 3-year approval period sought is reasonable and is of the same time frame as the previous approval.
- 12.4 Relevant government departments, including DAFC, DEP and C for T, have no adverse comment on the application. Besides, no substantiated environmental complaints pertaining to the Site was received by DEP in the past three years. Significant adverse environmental and traffic impacts on the surrounding area are not envisaged. To minimise any possible nuisance generated by the development, approval conditions restricting the operation hours, operational arrangement and maintenance of double glazing windows for the animal boarding facilities are recommended in paragraph 13.2. Any non-compliance with the approval

conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will also be advised to follow the relevant mitigation measures and requirements in the Code of Practice in order to minimise any potential environmental impact, to keep the Site clean and tidy at all times and to note DEP's comments regarding compliance with relevant ordinance.

- 12.5 Given that 3 previous approvals for the same applied use/similar use have been granted to the Site, approval of the current application is in line with the Committee's previous decisions.
- 12.6 No public comment was received on the application during the statutory public inspection period.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department considers that the temporary dog hotel could be tolerated for a further 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 further period of 3 years from 23.4.2019 to 22.4.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no visitors are allowed on the Site between 6:30 p.m. and 8:45 a.m. from Mondays to Fridays, 6:30 p.m. and 9:00 a.m. on Saturdays and 7:00 p.m. and 9:30 a.m. on Sundays and Public Holidays, as proposed by the applicant, during the planning approval period;
- (b) the dogs shall be kept inside the enclosed boarding facilities between 6:30 p.m. and 9:00 a.m. on the Site, as proposed by the applicant, during the planning approval period;
- (c) the existing double glazing windows installed for the boarding facilities shall be maintained at all times during the planning approval period;
- (d) no vehicle is allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, 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) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;

- (g) the submission of a condition 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 23.7.2019;
- (h) the submission of fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 23.10.2019;
- (i) in relation to (h) above, the implementation of fire service installations proposal within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 23.1.2020;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e) 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; and
- (k) if any of the above planning conditions (g), (h), (i) or (j) 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.

[Approval conditions (b), (c), (h) to (k) are the same as those under the permission for Application No. A/YL-TT/375. Conditions (d) and (e) have been included, conditions (a), (f) and (g) are updated, and conditions related to submission and implementation of drainage facilities and reinstatement of the Site upon expiry of the planning approval are deleted to accord with relevant departments' latest requirements.]

Advisory clauses

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

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

the development is not in line with the planning intention of the "V" zone, which is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within the zone is primarily intended for development of Small Houses by indigenous villagers. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

- 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

Appendix I	Application Form with plans received on 25.2.2019
Appendix Ia	Supplementary Information received on 6.3.2019 providing additional information
Appendix Ib	Further Information received on 3.4.2019 clarifying the building height of the structures and operation hours
Appendix II	Relevant extract of 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. 34B)
Appendix III	Previous Applications covering the Application Site
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawings A-2 to A-3	Internal Layout Plans
Plan A-1	Location Plan with Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
APRIL 2019**