

RNTPC Paper No. A/YL-SK/263 A  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 17.1.2020

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

**APPLICATION NO. A/YL-SK/263**

- Applicant** : Mr. CHAI Chee Chueng James
- Site** : Lots 383 (Part), 384 S.D (Part), 385 S.A-S.C (Part) and 386 (Part) in D.D. 112, Kam Sheung Road, Shek Kong, Yuen Long
- Site Area** : About 1,618.97m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
- Zoning** : "Agriculture" ("AGR")
- Application** : Temporary Animal Boarding Establishment with Hospice Services for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a temporary animal boarding establishment with hospice services at the application site (the Site) for a period of 3 years. The Site falls within an area zoned "AGR" on the approved Shek Kong OZP No. S/YL-SK/9 (Plan A-1). According to the Notes of the OZP, 'animal boarding establishment' is a Column 2 use within "AGR" zone which requires planning permission from the Town Planning Board (the Board), whereas 'animal hospice services' is neither a Column 1 nor Column 2 use within "AGR" zone. Notwithstanding this, temporary use or development of any land or building not exceeding a period of 3 years may be allowed with permission from the Board. The Site is currently occupied by a number of temporary structures used for the applied use without valid planning permission and not the subject of any previous application.
- 1.2 According to the applicant, the applied temporary animal boarding establishment with hospice services involves a total of 10 single-storey structures with building heights ranging from 1.9m to 4m and a total floor area of about 866.39m<sup>2</sup> for animal boarding, animal cremation, storage, office, common room and memorial

room for storing cremated ashes uses (Drawing A-1). There are also two memorial gardens at the Site for scattering cremated ashes. The operation hours are between 8:00 a.m. and 10:00 p.m. daily with 24-hour animal boarding services. The Site is accessible via a local track from Kam Sheung Road, and no parking and loading/unloading spaces are provided at the Site. The layout plan submitted by the applicant is at Drawing A-1.

- 1.3 The application was originally scheduled for consideration by the Rural and New Town Planning Committee (the Committee) on 18.10.2019. On 18.10.2019, the Committee decided to defer the consideration of the application upon the request of the applicant in order to allow time for the applicant to prepare further information (FI) to address departmental comments. Upon receipt of FI on 17.12.2019, the application is scheduled for consideration by the Committee at this meeting.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 30.8.2019 (Appendix I)
  - (b) Further information (FI) received on 17.12.2019 (Appendix Ia)  
(exempted from publication)
  - (c) FI received on 10.1.2020 (Appendix Ib)  
(exempted from publication)

## 2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Appendices I to Ib, and are briefly summarized as follows:

- (a) There is increasing demand for animal boarding and hospice services. There are two uses operated within the Site, animal boarding and hospice services. For fee-charging hospice services, the applicant helps customers to cremate their pets, provides memorable products and scatters the bone ashes to the garden. For animal boarding which is not for generating income, the applicant aims to provide a home for a variety kind of abandoned animals which includes birds, turtles, goat, guinea pigs and others until they die or being rehomed. The animals are not for breeding purpose. They rely on the cremation business to support the animals.
- (b) The structures of the Site have been built for a long time. The applicant has used the Site for animal boarding establishment with hospice services for eight years.
- (c) While it is difficult to identify suitable site in Hong Kong for development of animal boarding establishment with hospice services, "AGR" is considered a suitable zoning for these uses. Temporary use will not jeopardize the long-term planning intention of "AGR" zone.

- (d) The animals kept on the Site are quiet and no barking or noise are created normally. No public announcement system would be installed at the Site. Besides, there are only small unit incinerators with its maximum capacity complying with the requirements of the Environmental Protection Department (EPD). The frequency of the furnace operation is 1–10 times per week on average, and the average operation duration is 20–40mins each time. No odor or color can be smelt or seen from the emission due to the appropriate design of the incinerators. There is no environmental complaint concerning the Site received before.
- (e) Adequate drainage facilities are provided on the Site, and there is no parking and loading/unloading spaces within the Site. No adverse drainage and traffic impacts to the surrounding areas and nearby residents are created.

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

The applicant is not the 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 Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

### 4. Background

At present, the Site is not subject to any outstanding planning enforcement case. However, if the applied development takes place without prior planning approval obtained, or should there be sufficient evidence to prove that the said uses are an unauthorized development (UD) under the Town Planning Ordinance, appropriate enforcement action will be instigated.

### 5. Previous Application

There is no previous application in respect of the Site.

### 6. Similar Application

- 6.1 There is one similar application No. A/YL-SK/226 for proposed temporary animal boarding establishment (without provision of animal hospice services) within the same “AGR” zone, which was rejected by the Committee on 10.11.2017 mainly on the grounds that the development was not in line with the planning intention of the “AGR” zone; the applicant failed to demonstrate that the proposed development would not generate adverse traffic impact on the surrounding areas; and the approval of application would set an undesirable

precedent for similar applications. Details of this application are summarized in **Appendix II** and the location of this application is shown on **Plan A-1**.

- 6.2 Application No. A/YL-SK/273 for temporary animal boarding establishment and dog training facility for a period of 3 years within the adjacent "Village Type Development" ("V") zone on the Shek Kong OZP will be also considered at this meeting.

7. **The Site and Its Surrounding Areas** (Plans A-1 and A-2, aerial photo on **Plan A-3**, and site photos on **Plans A-4a to A-4d**)

7.1 The Site is:

- (a) currently occupied by a number of temporary structures used for the applied use without valid planning permission; and
- (b) accessible via a local track from Kam Sheung Road which passes through the "V" zone.

7.2 The surrounding areas are predominantly rural in character mixed with residential structures/dwellings, active/fallow agricultural land, open storage/storage yards, workshops, plant nursery and pet training centre;

- (a) to its southwest, west and northwest are clusters of residential structures/dwellings (with the nearest distance of about 50m within the "V" zone);
- (b) to its north and northeast are mainly active/ fallow agricultural land with a few residential structures/dwellings;
- (c) to its east are vacant land, fallow agricultural land and gardening; and
- (d) to its south are a vehicle repair workshop, open storage of vehicles, a plant nursery and a pet training centre.

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 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) the Site is accessible from Kam Sheung Road via Government Land (GL) and private land. His office provides no maintenance work for GL involved and does not guarantee any right-of-way over GL to the Site;
- (c) the Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed the relevant airfield height limit within SKAHRA;
- (d) according to the prevailing guidelines of LandsD, application for Short Term Waiver (STW) of the undertaking must not be an offensive trade and must not give rise to environmental pollution. Referring to the applicant's proposal, Structure Nos. 2 and 9 would be used for animal cremation purposes; and
- (e) should planning approval be given to the planning application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the applied use is temporary in nature, only application for regularization 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 LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application 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 LandsD.

### Traffic

#### 9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) he has reservation on the application from traffic engineering perspective due to insufficient information, as the applicant has not provided the trip generation and attraction arising from the applied development to demonstrate that there is no adverse traffic impact to Kam Sheung Road; and
- (b) the local access between Kam Sheung Road and the Site is not managed by Transport Department (TD). The land status of the local access road should be checked with 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 of HyD):

- (a) HyD is not/shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road; and
- (b) adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.

### Agriculture and Nature Conservation

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

- (a) the Site falls within the "AGR" zone and is currently a paved open space occupied by some temporary structures. The agricultural activities are active in the vicinity, and 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 potential for agricultural rehabilitation, the application is not supported from agricultural point of view;
- (b) noting that the Site has been paved and occupied by some temporary structures, he has no comment on the application from nature conservation perspective;
- (c) the Site and the applicant are associated with a valid animal trading license granted by his department. However, there is no

valid boarding license associated with the Site and the applicant at this juncture; and

- (d) 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. Should the application be approved, the applicant is reminded that the establishment and ancillary facilities which is licensed under the said Regulations must always fulfil the criteria listed in the said Regulations. 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.

### Environment

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

- (a) he has no adverse comment on the application from environmental protection point of view.
- (b) should the application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites"; and
- (c) there was no substantiated environmental complaint at the Site received by DEP in the past three years.

### Landscape

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

- (a) he has no objection to the application from the landscape planning perspective;
- (b) referring to the aerial photo dated 13.3.2018, the Site is situated in an area of rural landscape character comprising scattered tree groups, abandoned farmland and village houses. Although similar development cannot be found in the proximity, considering the building height of the applied development (from 1.9m to 4m), it is considered not incompatible with the surrounding environment; and

- (c) based on the site visit dated 24.6.2019, the applied development is already in place and in operation. Numbers of existing trees including *Ficus superba* var. *japonica* (筆管榕), *Ficus benjamina* (垂葉榕), *Macaranga tanarius* (血桐), *Michelia X alba* (白蘭) and *Plumeria rubra* (雞蛋花) in good condition are found within the Site. Referring to the layout plan (Drawing A-1), the existing trees are not in conflict with the applied development. Further significant adverse impact on landscape resources is not anticipated.

### 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 applied development from the public drainage point of view; and
- (b) should the application be approved, approval conditions requiring the submission of a drainage proposal and the implementation and maintenance of the 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.

### Water Supplies

9.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C of WSD):

he has no objection to the application, and his detailed comments are at Appendix IV.

### Building Matters

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

- (a) if the existing structures (not being a New Territories Exempted Houses) are erected on leased land without approval of the Building Authority (BA), they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any applied use under the application;
- (b) 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;

- (c) before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW under BO. An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with BO;
- (d) 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 respectively;
- (e) 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 Building (Planning) Regulations at the building plan submission stage; and
- (f) if the applied use under the application is subject to issue of a license, the applicant is 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.

### **Fire Safety**

#### **9.1.10 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 where the proposed FSI to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### Environmental Hygiene

#### 9.1.11 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. The proposal should not be a nuisance or injurious or dangerous to health and surrounding environment. Also, for any waste generated from the related commercial/trading activities, the applicant should handle on their own / at their expenses; and
- (b) any animal carcass/parts shall be properly wrapped or bagged before disposal.

### District Officer's Comments

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

- (a) he has no comment on the application; and
- (b) he has received a letter from the vice-chairperson of Pat Heung Rural Committee cum resident representative of Lin Fa Tei Village, and two indigenous inhabitant representatives of the same village objecting to the application mainly on the grounds that the applied use is an UD without valid planning permission; and the development generates adverse environmental and hygiene impacts. The same comment was also submitted to the Board during the public consultation period (Appendix III-2).

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

- (a) Project Manager/West, Civil Engineering and Development Department (PM/W of CEDD);
- (b) Commissioner of Police (C of P); and
- (c) Director of Electrical and Mechanical Services (DEMS).

## 10. Public Comments Received During Statutory Publication Period

On 6.9.2019, the application was published for public inspection. During the three-week statutory public inspection period, a total of five public comments were received from a Yuen Long District Council Member; the vice-chairperson of Pat Heung Rural Committee cum resident representative of Lin Fa Tei Village and two indigenous inhabitant representatives of the same village; The Hong Kong Bird Watching Society; The World Wide Fund For Nature Hong Kong; and a member of public (Appendices

III-1 to III-5). They object to the application mainly on the grounds that the applied use is not in line with the planning intention of "AGR" zone; the Site has been used for UD and approval of the application may encourage "develop first, apply later"; it will set an undesirable precedent for similar development in the future; and the development causes adverse environmental and hygiene impacts to the surrounding areas and nearby residents.

## 11. Planning Considerations and Assessments

- 11.1 The application is for a temporary animal boarding establishment with hospice services for a period of 3 years at the Site zoned "AGR" on the approved Shek Kong OZP (Plan A-1). Apart from animal boarding facilities, the applied development would provide hospice services including animal crematorium facilities, memorial rooms, memorial garden, storage of cremated ashes, etc (Plans A-4a to A-4d). According to the OZP, "AGR" zone is primarily intended 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 applied use is not in line with the planning intention of the "AGR" zone. DAFC does not support the application from agricultural point of view as the Site possesses potential for agricultural uses such as greenhouses and plant nurseries, and active agricultural activities are found in the vicinity. The applicant has not provided strong planning justifications in the submission to merit a departure from the planning intention of "AGR" zone, even on a temporary basis.
- 11.2 The animal boarding establishment with hospice services and cremation of animal dead bodies is considered incompatible with the surrounding areas which are rural in character with clusters of residential structures/dwellings and active/fallow agricultural land (Plan A-2). Residential dwellings are found within the immediate vicinity (within 50m from the Site). In addition, C for T has reservation on the application as the applicant fails to provide sufficient traffic-related information to demonstrate that the applied development would not cause adverse traffic impact to Kam Sheung Road. Other relevant departments including DEP, CTP/UD&L of PlanD, CE/MN of DSD, CE/C of WSD and DFEH have no objection to/adverse comment on the application.
- 11.3 There is one similar application No. A/YL-SK/226 for proposed temporary animal boarding establishment (without provision of animal hospice services) in the same "AGR" zone, which was rejected by the Committee on 10.11.2017 on the grounds as stated in paragraph 6. The Committee's considerations on the above application are generally applicable to the current application. Rejecting the subject application is in line with the Committee's previous decision. The applied development, if approved, would set an undesirable precedent for similar applications within the "AGR" zone; and encourage similar application in the area and further encroachment of development onto the "AGR" zone. The cumulative impact would result in general degradation of the landscape quality of the area.

- 11.4 Regarding one local objection conveyed by DO/YL of HAD and five objecting public comments received during the statutory publication period as stated in paragraphs 9.1.12 and 10 above, relevant Government departments' comments and planning considerations set out 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 and having taken into account the local views conveyed by DO/YL of HAD and public comments in paragraphs 9.1.12 and 10 above, the Planning Department does not support the application for the following reasons:

- (a) the applied development is not in line with the planning intention of the "AGR" zone which is primarily intended 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. There are no strong planning justifications in the submission to merit a departure from the planning intention of "AGR" zone, even on a temporary basis;
- (b) the applied development is incompatible with the surrounding areas which are rural in character with clusters of residential structures/dwellings and active/fallow agricultural land;
- (c) the applicant fails to demonstrate that the applied development would not cause adverse traffic impacts to the surrounding area; and
- (d) approval of the application would set an undesirable precedent for similar applications in the "AGR" zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

- 12.2 Alternatively, 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 17.1.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) no operation between 10:00 p.m. and 8:00 a.m. (except for overnight animal boarding), 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 between 10:00 p.m. and 8:00 a.m. during the planning approval period;

- (c) no public announcement system, whistle blowing, portable loudspeaker or any form of audio amplification system is allowed to be used, as proposed by the applicant, 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 submission of trip generation and attraction from/to the Site within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the TPB by 17.7.2020;
- (f) 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 17.7.2020;
- (g) in relation to (f) 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 17.10.2020;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of proposal for fire service installations and water supplies for fire-fighting 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 17.7.2020;
- (j) in relation to (i) above, the implementation of proposal for fire service installations and water supplies for fire-fighting 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 17.10.2020;
- (k) if any of the above planning conditions (a), (b), (c), (d) or (h) 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;
- (l) if any of the above planning conditions (e), (f), (g), (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; and
- (m) 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 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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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. Attachments**

Appendix I	Application Form with attachments received on 30.8.2019
Appendix Ia	Further information (FI) received on 17.12.2019
Appendix Ib	FI received on 10.1.2020
Appendix II	Similar Application
Appendix III	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4d	Site Photos

**PLANNING DEPARTMENT  
JANUARY 2020**

Similar s.16 Application  
within the same "AGR" Zone  
on the Shek Kong Outline Zoning Plan (OZP)

Rejected Application

	Application No.	Use(s)/Development(s)	Date of Consideration	Rejected Reasons
1.	A/YL-SK/226	Proposed Temporary Animal Boarding Establishment for a Period of 3 Years	10.11.2017	RI – R3

**Rejected Reasons:**

- R1. The proposed development is not in line with the planning intention of the "Agriculture" ("AGR") zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the current submission for a departure from the planning intention, even on a temporary basis.
- R2. The applicant fails to demonstrate that the proposed development would not generate adverse traffic impact on the surrounding areas.
- R3. Approval of the application would set an undesirable precedent for similar applications within this part of the "AGR" zone. The cumulative effect of approving such applications would result in general degradation of the rural environment of the area.



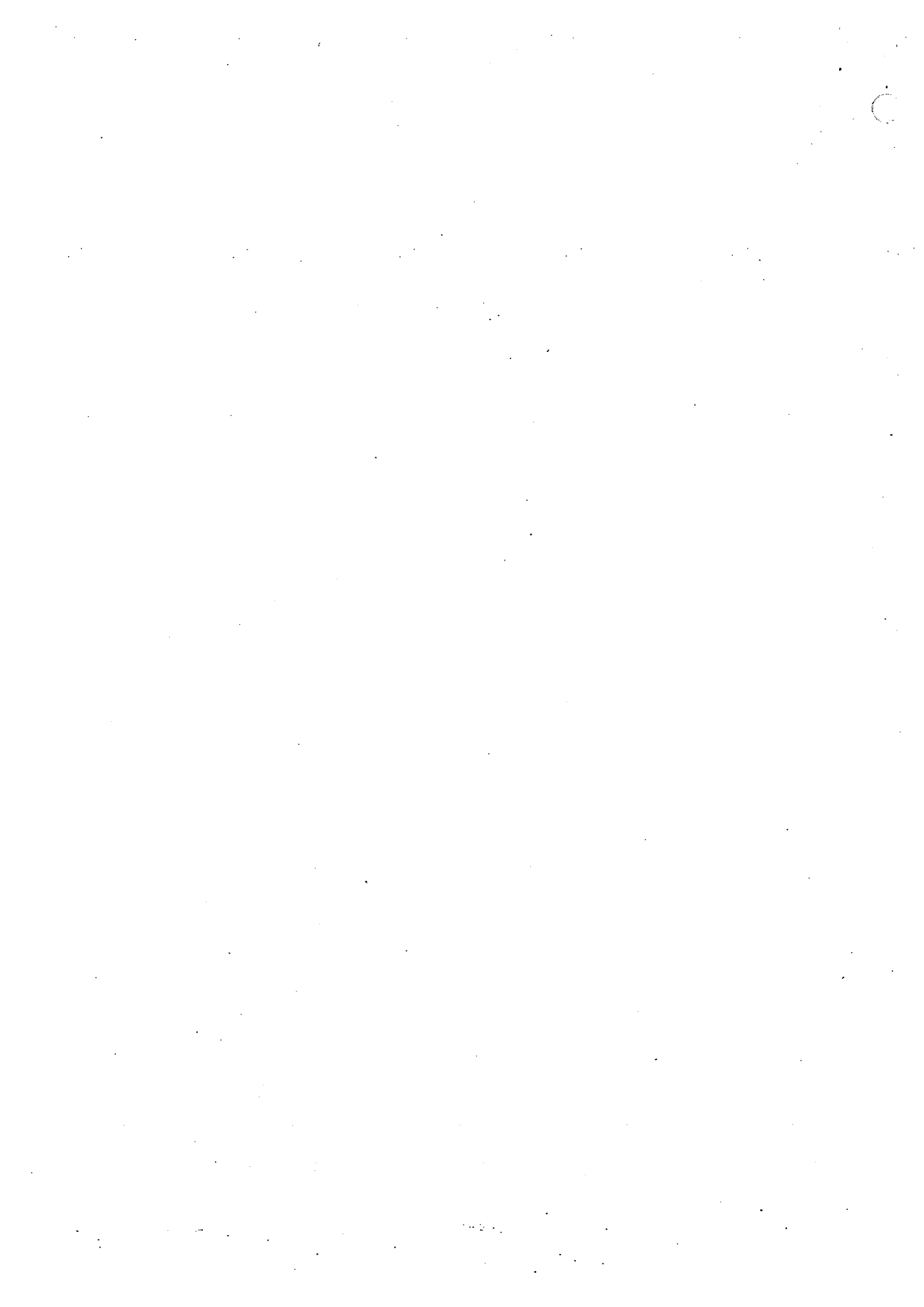


Advisory Clauses

- (a) prior planning permission should have been obtained before commencing the applied use at the Site.
- (b) to note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL of LandsD) that:
- (i) 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;
  - (ii) the Site is accessible from Kam Sheung Road via Government Land (GL) and private land. His office provides no maintenance work for GL involved and does not guarantee any right-of-way over GL to the Site.
  - (iii) the Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed the relevant airfield height limit within SKAHRA;
  - (iv) according to the prevailing guidelines of LandsD, application for Short Term Waiver (STW) of the undertaking must not be an offensive trade and must not give rise to environmental pollution. Referring to the applicant's proposal, Structure Nos. 2 and 9 would be used for animal cremation purposes; and
  - (v) the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the applied use is temporary in nature, only application for regularization 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 LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application 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 LandsD.
- (c) to note the comments of the Commissioner for Transport (C for T) that the local access between Kam Sheung Road and the Site is not managed by Transport Department (TD). The land status of the local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW of HyD) that HyD is not/shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road. Adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.

- (e) to note the comments of the Director of Agriculture, Fisheries and Conservation (DAFC) that 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. Should the application be approved, the applicant is reminded that the establishment and ancillary facilities which is licensed under the said Regulations must always fulfil the criteria listed in the said Regulations. 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.
- (f) to note the comments of the Director of Environmental Protection (DEP) that:
- (i) the applicant is strongly advised to properly design and maintain the facilities to minimize any potential environmental nuisance, e.g. the boarding establishment should be enclosed with proper soundproofing materials and provision of 24-hour mechanical ventilation & air-conditioning system, the outdoor activity area should be located away from adjacent sensitive receivers and/or provided with necessary mitigation measures, etc; and
  - (ii) the applicant is also reminded to observe/note (a) the requirement stipulated in the latest "Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storage Sites" issued by his department to minimize any potential environmental nuisances; (b) effluent discharges from the Site are subject to control under the Water Pollution Control Ordinance. It is the obligation of the applicant to meet all statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures to prevent polluting the watercourse adjacent to the Site; (c) the requirements stipulated in the Practice Note for Professional Persons (ProPECC PN) 5/93 "Drainage Plans subject to Comment by the EPD" with regard to the soakaway and septic tank system, if connection to public sewers is not feasible; and (d) the requirements stipulated under the Air Pollution Control Ordinance and "A Guide to the Air Pollution Control (furnaces, Ovens and Chimneys) (Installation and Alternation) Regulations" issued by his department.
- (g) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C of WSD) that for provision of water supply to the applied development, the applicant may need to extend his/her inside services to the nearest suitable Government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standard.
- (h) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW of BD) that:
- (i) if the existing structures (not being a New Territories Exempted Houses) are erected on leased land without approval of the Building Authority (BA), they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any applied 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, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW under BO. An Authorized Person (AP) should be appointed as the coordinator 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 respectively;
  - (v) 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 Building (Planning) Regulations at the building plan submission stage; and
  - (vi) if the applied use under the application is subject to issue of a license, the applicant is 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) to note the comments of the Director of Fire Services (D of FS) that:
- (i) in consideration of the design/nature of the proposal, fire service installations (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 where the proposed FSI to be installed should be clearly marked on the layout plans; and
  - (ii) the applicant is reminded that if the proposed structure(s) is required to comply with BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.
- (j) to note the comments of the Director of Food and Environmental Hygiene (DFEH):
- (i) if the proposal involves any commercial/trading activities, no environmental nuisance should be generated to the surroundings. The proposal should not be a nuisance or injurious or dangerous to health and surrounding environment. Also, for any waste generated from the related commercial/trading activities, the applicant should handle on their own / at their expenses; and
  - (ii) any animal carcass/parts shall be properly wrapped or bagged before disposal.



**Agenda Item 13B**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-SK/263            Temporary Animal Boarding Establishment and Hospice Services  
Establishment for a Period of 3 Years in “Agriculture” Zone, Lots 383  
(Part), 384 S.D (Part), 385 S.A-S.C (Part) and 386 (Part) in D.D. 112,  
Kam Sheung Road, Shek Kong, Yuen Long  

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(RNTPC Paper No. A/YL-SK/263A)

**Presentation and Question Sessions**

56.            Mr Patrick M.Y. Fung, STP/FSYLE, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) temporary animal boarding establishment with hospice services for a period of three years;
- (c) departmental comments – departmental comments were set out in paragraph 9 of the Paper. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application as the site possessed potential for agricultural uses such as greenhouses and plant nurseries, and active agricultural activities were found in the vicinity. The Commissioner for Transport (C for T) had reservation on the application as the applicant failed to provide sufficient traffic-related information to demonstrate that the applied use would not cause adverse traffic impact on Kam Sheung Road. Other government departments consulted had no objection to or no adverse comment on the application;
- (d) during the first three weeks of the statutory publication period, five public

comments were received from a Yuen Long District Council Member, the Vice-Chairperson of Pat Heung Rural Committee cum resident representative of Lin Fa Tei village and two indigenous inhabitant representatives of the same village, the Hong Kong Bird Watching Society, the World Wide Fund For Nature Hong Kong and a member of public objecting to the application. Major grounds of objection were set out in paragraph 10 of the Paper; and

- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessments set out in paragraph 11 of the Paper. The applied use was not in line with the planning intention of the “Agriculture” (“AGR”) zone. DAFC did not support the application as the site possessed potential for agricultural uses and active agricultural activities were found in the vicinity. The applicant had not provided strong planning justifications in the submission to merit a departure from the planning intention of “AGR” zone, even on a temporary basis. The animal boarding establishment with hospice services and cremation of animal dead bodies was considered incompatible with the surrounding areas which were rural in character with clusters of residential structures/dwellings and active/fallow agricultural land. C for T had reservation on the application as the applicant failed to demonstrate that the applied development would not cause adverse traffic impact to the surrounding. There was one similar application No. A/YL-SK/226 for proposed temporary animal boarding establishment (without provision of animal hospice services) in the same “AGR” zone, which was rejected by the Committee on 10.11.2017. Rejecting the subject application was in line with the Committee's previous decision. The applied use, if approved, would set an undesirable precedent for similar applications within the “AGR” zone; and encourage similar applications in the area and further encroachment of development onto the “AGR” zone. The cumulative impact would result in general degradation of the landscape quality of the area. Regarding the adverse public comments received, comments of concerned departments and the planning assessments above were relevant.

57. In response to a Member's enquiry, Mr Patrick M.Y. Fung, STP/FSYLE, referring to Drawing A-1 of the Paper, clarified that the applied use was mainly for animal boarding and cremation with ancillary memorial garden and room for storing cremated ashes, office, and common room. For operating an animal boarding establishment, the operator needed to obtain a valid boarding license granted by DAFC and meet the requirements of the Public Health (Animals) (Boarding Establishment) Regulations Cap.139I which mainly required providing a proper, safe and spacious living environment to the animals and also providing proper care to the animals in terms of hygiene and food supply.

58. A Member enquired on the assessment criteria for considering applications for animal boarding establishment. Mr Patrick M.Y. Fung, STP/FSYLE, replied that the main considerations in planning assessment were land use compatibility and potential impacts or nuisances induced by the applied use in terms of traffic and environmental aspects on the surrounding areas. Different from other planning applications for animal boarding establishment, the current application involved 'animal cremation' which would be incompatible with the surrounding areas with residential dwellings, hence the current application was not supported.

[Mr Paul Y.K. Au returned to join the meeting at this point.]

#### Deliberation Session

59. After deliberation, the Committee decided to reject the application. The reasons were :

- “(a) the applied development is not in line with the planning intention of the “Agriculture” (“AGR”) zone which is primarily intended 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. There are no strong planning justifications in the submission to merit a departure from such planning intention, even on a temporary basis;
- (b) the applied development is incompatible with the surrounding areas which

are rural in character with clusters of residential structures/dwellings and active/fallow agricultural land;

- (c) the applicant fails to demonstrate that the applied development would not cause adverse traffic impact on the surrounding areas; and
- (d) approval of the application would set an undesirable precedent for similar applications in the "AGR" zone. The cumulative effect of approving such similar applications would result in a general degradation of the rural environment of the area."



城市規劃委員會

香港北角渣華道三百三十三號  
北角政府合署十五樓

TOWN PLANNING BOARD

15/F., North Point Government Offices  
333 Java Road, North Point,  
Hong Kong.

傳真 Fax: 2877 0245 / 2522 8426

電話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.: TPB/A/YL-SK/263

By Post

7 February 2020

Chai Chee Cheung James

Dear Sir/Madam,

**Temporary Animal Boarding Establishment and Hospice Services  
Establishment for a Period of 3 Years in "Agriculture" Zone,  
Lots 383 (Part), 384 S.D (Part), 385 S.A-S.C (Part)  
and 386 (Part) in D.D. 112, Kam Sheung Road, Shek Kong, Yuen Long**

I refer to my letter to you dated 16.1.2020.

After giving consideration to the application, the Town Planning Board (TPB) decided to reject the application and the reasons are :

- (a) the applied development is not in line with the planning intention of the "Agriculture" ("AGR") zone which is primarily intended 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. There are no strong planning justifications in the submission to merit a departure from such planning intention, even on a temporary basis;
- (b) the applied development is incompatible with the surrounding areas which are rural in character with clusters of residential structures/dwellings and active/fallow agricultural land;
- (c) you fail to demonstrate that the applied development would not cause adverse traffic impact on the surrounding areas; and
- (d) approval of the application would set an undesirable precedent for similar applications in the "AGR" zone. The cumulative effect of approving such similar applications would result in a general degradation of the rural environment of the area.

A copy of the TPB Paper in respect of the application (except the supplementary planning statement/technical report(s), if any) and the relevant extract of minutes of the TPB meeting held on 17.1.2020, in both English and Chinese, are enclosed herewith for your reference.

Under section 17(1) of the Town Planning Ordinance, an applicant aggrieved by a decision of the TPB may apply to the TPB for a review of the decision. If you wish to seek a review, you should inform me within 21 days from the date of this letter (on or before 28.2.2020). I will then contact you to arrange a hearing before the TPB which you and/or your authorized representative will be invited to attend. The TPB is required to consider a review application within three months of receipt of the application for review. Please note that any review application will be published for three weeks for public comments.

Under the Town Planning Ordinance, the TPB can only reconsider at the review hearing the original application in the light of further written and/or oral representations. Should you decide at this stage to materially modify the original proposal, such proposal should be submitted to the TPB in the form of a fresh application under section 16 of the Town Planning Ordinance.

If you wish to seek further clarifications/information on matters relating to the above decision, please feel free to contact Mr. Patrick Fung of Fanling, Sheung Shui & Yuen Long East District Planning Office at 3168 4034.

Yours faithfully,



( Raymond KAN )  
for Secretary, Town Planning Board

(With Chinese Translation)

城市規劃委員會

香港北角渣華道三百三十三號  
北角政府合署十五樓

TOWN PLANNING BOARD

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來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.: TPB/A/YL-SK/263

郵遞函件

蔡濟忠

先生／女士：

在劃為「農業」地帶的元朗石崗錦上路第 112 約地段第 383 號(部分)、第 384 號 D 分段(部分)、第 385 號 A 至 C 分段(部分)及第 386 號(部分)關設臨時動物寄養所及善終服務設施(為期三年)

我曾於二零二零年一月十六日發信給你。

城市規劃委員會(下稱「城規會」)在考慮這宗申請後，決定拒絕這宗申請，理由是：

- (a) 申請發展不符合「農業」地帶的規劃意向。「農業」地帶的規劃意向，主要是保存和保護良好的農地／農場／魚塘，以便作農業用途，以及保存在復耕及作其他農業用途方面具有良好潛力的休耕農地。申請書內並無提出有力的規劃理據，以支持偏離此規劃意向，即使僅屬臨時性質亦然；
- (b) 申請發展與周邊地區不相協調。周邊地區富有鄉郊特色，當中有住宅構築物／民居屋羣和常耕／休耕農地；
- (c) 你未能證明申請發展不會對周邊地區的交通帶來負面影響；以及

(d) 批准有關申請會為該「農業」地帶內的同類申請立下不良先例。倘同類申請都獲批准，累積影響所及，會令區內鄉郊環境的整體質素下降。

隨函付上就這宗申請擬備的城規會文件(補充規劃綱領／技術報告(如有的話)除外)及二零二零年一月十七日城規會會議記錄的相關摘錄的中英文本，以供參閱。

根據《城市規劃條例》第 17(1)條，申請人如因城規會的決定而感到不滿，可向城規會申請對有關決定進行覆核。如欲提出覆核申請，你須在本信發出日期起計 21 天內(即二零二零年二月二十八日或之前)通知我。其後，我會與你聯絡，邀請你及／或你授權的代表出席城規會的聆聽會。城規會須在收到覆核申請的日期起計三個月內考慮覆核申請。所有覆核申請均須予公布，為期三個星期，讓公眾提出意見。

根據《城市規劃條例》，城規會在覆核聆聽會上，只可因應申請人的進一步書面及／或口頭申述，重新考慮原來的申請。如你在現階段決定對原來的建議作出重大修改，便應根據《城市規劃條例》第 16 條的規定，就修改建議向城規會提交新的申請。

如對上述決定有任何疑問或需要進一步資料，請與粉嶺、上水及元朗東規劃處馮武揚先生聯絡(電話：3168 4034)。

城市規劃委員會秘書  
(簡志陶代行)

二零二零年二月七日

Advisory Clauses

- (a) prior planning permission should have been obtained before commencing the applied use at the Site.
- (b) to note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) that:
  - (i) 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;
  - (ii) the Site is accessible from Kam Sheung Road via Government Land (GL) and private land. His office provides no maintenance work for GL involved and does not guarantee any right-of-way over GL to the Site.
  - (iii) the Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed the relevant airfield height limit within SKAHRA;
  - (iv) according to the prevailing guidelines of LandsD, application for Short Term Waiver (STW) of the undertaking must not be an offensive trade and must not give rise to environmental pollution. Referring to the applicant's proposal, Structure Nos. 2 and 9 would be used for animal cremation purposes; and
  - (v) the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the applied use is temporary in nature, only application for regularization 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 LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application 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 LandsD.
- (c) to note the comments of the Commissioner for Transport (C for T) that the Site is connected to the public road network via a section of a local access road which is not managed by the Transport Department. The land status of the local access road should be checked with the Lands Department. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that HyD is not/shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road. Adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.

- (e) to note the comments of the Director of Agriculture, Fisheries and Conservation (DAFC) that 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. Should the application be approved, the applicant is reminded that the establishment and ancillary facilities which is licensed under the said Regulations must always fulfil the criteria listed in the said Regulations. 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.
- (f) to note the comments of the Director of Environmental Protection (DEP) that:
- (i) the applicant is strongly advised to properly design and maintain the facilities to minimize any potential environmental nuisance, e.g. the boarding establishment should be enclosed with proper soundproofing materials and provision of 24-hour mechanical ventilation & air-conditioning system, the outdoor activity area should be located away from adjacent sensitive receivers and/or provided with necessary mitigation measures, etc; and
  - (ii) the applicant is also reminded to observe/note (a) the requirement stipulated in the latest "Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storage Sites" issued by his department to minimize any potential environmental nuisances; (b) effluent discharges from the Site are subject to control under the Water Pollution Control Ordinance. It is the obligation of the applicant to meet all statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures to prevent polluting the watercourse adjacent to the Site; (c) the requirements stipulated in the Practice Note for Professional Persons (ProPECC PN) 5/93 "Drainage Plans subject to Comment by the EPD" with regard to the soakaway and septic tank system, if connection to public sewers is not feasible; and (d) the requirements stipulated under the Air Pollution Control Ordinance and "A Guide to the Air Pollution Control (furnaces, Ovens and Chimneys) (Installation and Alternation) Regulations" issued by his department.
- (g) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that for provision of water supply to the applied development, the applicant may need to extend his/her inside services to the nearest suitable Government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standard.
- (h) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that:
- (i) if the existing structures (not being a New Territories Exempted Houses) are erected on leased land without approval of the Building Authority (BA), they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any applied 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, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW under BO. An Authorized Person (AP) should be appointed as the coordinator 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 respectively;
  - (v) 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 Building (Planning) Regulations at the building plan submission stage; and
  - (vi) if the applied use under the application is subject to issue of a license, the applicant is 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) to note the comments of the Director of Fire Services (D of FS) that:
- (i) in consideration of the design/nature of the proposal, fire service installations (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 where the proposed FSI to be installed should be clearly marked on the layout plans; and
  - (ii) the applicant is reminded that if the proposed structure(s) is required to comply with BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.
- (j) to note the comments of the Director of Food and Environmental Hygiene (DFEH):
- (i) if the proposal involves any commercial/trading activities, no environmental nuisance should be generated to the surroundings. The proposal should not be a nuisance or injurious or dangerous to health and surrounding environment. Also, for any waste generated from the related commercial/trading activities, the applicant should handle on their own / at their expenses; and
  - (ii) any animal carcass/parts shall be properly wrapped or bagged before disposal.

