

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

APPLICATION NO. A/HSK/301

- Applicant** : Mr. LI Kin Sun represented by Metro Planning & Development Company Limited
- Site** : Lot 1315 RP (Part) in D.D. 124 and Adjoining Government Land (GL), San Sang San Tsuen, Yuen Long, New Territories
- Site Area** : About 894 m² (includes GL of about 197 m² or 22%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Open Space” (“O”)
- Application** : Renewal of Planning Approval for Temporary Shop and Services (Retail Shop for Pet Goods) and Dog Breeding Centre for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to use the application site (the Site) for temporary shop and services (retail shop for pet goods) and dog breeding centre for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “O” on the approved HSK and HT OZP. According to the Notes of the OZP for “O” zone, ‘Shop and Services’ is a Column 2 use requiring planning permission from the Town Planning Board (the Board). Whilst dog breeding centre use is neither a Column 1 nor Column 2 use in the “O” zone on the OZP. Temporary use or development of any land or buildings not exceeding a period of three years within the zone requires planning permission from the Board notwithstanding that the use or development is not provided for under the Notes of the OZP. The Site is currently used for the applied use with valid planning permission.
- 1.2 The Site is related to one previous application No. A/HSK/55 for temporary shop and services (retail shop for pet goods) and dog breeding centre approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 6.7.2018 for a period of 3 years with validity up to 6.7.2021. All time-limited approval conditions have been complied with.
- 1.3 The Site is accessible from Tin Ha Road via a local track (**Drawing A-1 and Plan A-3**), with the ingress/egress point located at its southwest corner (**Drawing A-2**). As shown on the proposed layout plan at **Drawing A-2**, two 1-2-storey temporary structures (3m and 6.5m high respectively with total floor area of about 770 m²) for

retail shop, dog breeding centre and guard room uses are proposed. A parking space for private car and a loading/unloading bay for light goods vehicle are also proposed. According to the applicant, the operation hours will be from 9:00 a.m. to 8:00 p.m. daily, including Sundays and public holidays. The vehicular access plan, proposed layout plan, proposed landscape and tree preservation plan, as-built drainage plan and proposed fire service installations (FSIs) plan submitted by the applicant are at **Drawings A-1 to A-5** respectively.

- 1.4 Compared with the last application (No. A/HSK/55), the current application is submitted by the same applicant for the same use at the same site, and the development parameters and site layout remain unchanged.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with annexes and plans received on **(Appendix I)** 18.3.2021
 - (b) Supplementary Information (SI) received on 22.3.2021, **(Appendix Ia)** confirming no change in site boundary
 - (c) SI received on 24.3.2021, confirming no change in operation **(Appendix Ib)** hours and layout, and enclosing a FSIs plan and related certificate

2. Justifications from the Applicant

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

- (a) The current application is a renewal application of A/HSK/55. The development parameters and applied use are the same as those of the last application. All approval conditions attached in the last planning application have been complied with.
- (b) Shop and services is a column 2 use in “O” zone. Similar applications in “O” zone have been approved by the Board (e.g. A/YL-MP/300 & A/YL/218).
- (c) The planning intention of “O” zone would not be jeopardized as the proposed development is temporary in nature.
- (d) The proposed development is compatible with the surrounding environment.
- (e) The proposed development could serve the local residents by selling pet food and providing dog breeding service.
- (f) The development will have minimal traffic impact, insignificant noise, environmental and drainage impacts, due to no operation during sensitive hours and surface U-channel has been provided.
- (g) The applicant has obtained the Dog Breeder Licence (Category B) from Agricultural, Fisheries and Conservations Department (**Annex 2**).

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 site notice and sending notice to the Ha Tsuen Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members' inspection. The "Owner's Consent/Notification" Requirements under TPB PG-No. 31A are not applicable to the Government land portion.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines on "Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development" (TPB PG-No. 34C) are relevant to the application. The relevant assessment criteria are at **Appendix II**.

5. Background

As the Site is covered by a valid planning approval (No. A/HSK/55), it is not subject to any planning enforcement action.

6. Previous Application

- 6.1 The Site is related to one previous application No. A/HSK/55 for temporary shop and services (retail shop for pet goods) and dog breeding centre, approved with conditions by the Committee of the Board on 6.7.2018 for a period of 3 years with validity up to 6.7.2021, on the considerations that the applied use was not incompatible with the surrounding areas; no major adverse comment from concerned Government departments; and approval of the application on a temporary basis would not jeopardise the long-term development of the area. Details of the application are summarised at **Appendix III** and its location is shown on **Plan A-1**.
- 6.2 The current application is submitted by the same applicant for the same applied use with the same layout and development parameters at the same site as the last approved application No. A/HSK/55, under which all time-limited approval conditions have been complied with. The current application is a renewal application.

7. Similar Application

- 7.1 There is one similar application No. A/HSK/51 within the same "O" zone on the OZP for temporary shop and services (fresh provision shop), approved with conditions by the Committee on similar considerations as mentioned in paragraph 6.1 above. Details of the application are summarised at **Appendix IV** and its location is shown on **Plan A-1**.
- 7.2 For Members' information, application No. A/HSK/300 for renewal of the above-mentioned planning approval will also be considered at this meeting (**Plan A-1**).

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

- 8.1 The Site is:
 - (a) currently used for the applied use under valid planning permission; and
 - (b) accessible via a local track leading from Tin Ha Road.
- 8.2 The surrounding areas have the following characteristics:

- (a) to its immediate east is a shop under valid planning permission; to its further east and southeast are several open storage yards;
- (b) to its immediate south are a storage yard and a residential dwelling; to its further south are a warehouse, several storage yards, residential dwellings, and a yard for parking of container trailers;
- (c) to its west is Kong Sham Western Highway; and
- (d) to its north are a residential dwelling and graves; to its further north and northeast are several open storage yards and some unused land.

9. Planning Intention

The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

10. Comments from Relevant Government Departments

10.1. The following Government departments have been consulted and their views on the application received 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 an Old Schedule Agricultural Lot (OSAL) and GL. The OSAL is 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 the GL included in the Site (about 197 m² subject to verification). The act of occupation of GL without Government’s prior approval is not allowed.
- (c) According to his record, there is no lease modification/land exchange application or building plan submission in relation to development at the Site approved/under processing.
- (d) Should the application be approved, the owner of the lot will need to apply to his office for permitting the structures to be erected or to regularize any irregularities on Site, if any. 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. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Application(s) for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD.

Traffic

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

- (a) He has no adverse comment on the application from traffic engineering view point.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.
- (c) The local track leading to the Site is not under Transport Department (TD)'s purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

10.1.3 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) HyD shall not be responsible for the maintenance of any access connecting the Site and Tin Ha Road.

Environment

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

- (a) There was no environmental complaint pertaining to the Site received in the past three years.
- (b) Should the application be approved, the applicant is 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' to minimise any potential environmental nuisance.

Drainage

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

- (a) Considering the current application is a renewal of planning approval of the previous application No. A/HSK/55, the existing drainage facilities would be maintained by the applicant. He has no objection in principle to the application from a drainage point of view.
- (b) Should the application be approved, he would suggest to stipulate a condition requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his Division.
- (c) The applicant should be reminded of the detailed comments in **Appendix VI.**

Building Matters

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

- (a) There is no record of approval by the Building Authority for the existing structures at the Site.
- (b) The applicant should be reminded of the detailed comments at **Appendix VI.**

Fire Safety

10.1.7 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the renewal application as the relevant fire safety requirement are deemed to be complied with.
- (b) The applicant should be reminded of the detailed comments at **Appendix VI.**

Long-Term Development

10.1.8 Comments of the Project Manager (West), Civil Engineering and Development Department (PM/W, CEDD):

- (a) He has no objection to the application for temporary use, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities.
- (b) The Site falls within the boundary of HSK/HT NDA. To ensure timely and orderly implementation, the development of HSK/HT NDA and relevant site formation and infrastructure works would be implemented in three phases, viz. First Phase development, Second Phase development and Remaining Phase development. The lot(s) concerned falls within a site under Second Phase development of HSK/HT NDA. While the detailed implementation programme for the project is still being formulated, it is envisaged that the site formation and engineering infrastructure works for the Second Phase development will commence in 2024. In this regard and subject to the necessary approvals as required, the Government plans to acquire these relevant sites by end 2023 for the development of HSK/NT NDA.

Others

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 work / operation under application shall not cause any environmental nuisance, pest infestation and obstruction to the surroundings.
- (b) The applicant should be reminded of the detailed comments at **Appendix VI.**

10.1.10 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) The Site falls within an area zoned “O” on the approved HSK & HT OZP No. S/HSK/2. It is not on the priority list for development agreed by the Yuen Long District Council. He has no plan to develop the Site into public open space at present.
- (b) He noted the application period is three years and has no in-principle objection to the application.

District Officer’s Comments

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

- (a) He has no comment on the application from departmental point of view.
- (b) His office has not received any comment from the locals on the application.

10.2. The following Government departments have no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD)
- (b) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (c) Director of Electrical and Mechanical Services.

11. Public Comment Received During Statutory Publication Period

On 26.3.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment from an individual was received. The commenter raised concern that the approval of the current application would hinder the implementation of planned development (**Appendix V-1**).

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning approval for temporary shop and services (retail shop for pet goods) and dog breeding centre for a period of 3 years at the Site zoned “O” on the OZP. The planning intention of “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. Whilst the applied use is not in line with the planning intention of the “O” zone, the implementation of this part of NDA is still being formulated, PM/W of CEDD and DLCS have no objection to the temporary use at the Site. In this regard, approval of the application on a temporary basis of 3 years would not jeopardise the long-term development of the Site. However, should the application be approved, it is suggested to include an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for the implementation of government projects.
- 12.2 The Site is located in an area mixed with open storage yards, shop and services, residential dwellings and vacant land. The applied use is generally not incompatible with the surrounding areas (**Plan A-2**).
- 12.3 The current application is a renewal application of the last approved application No. A/HSK/55 for three more years. There has been no major change in planning circumstances pertaining to the Site and the surrounding areas since the previous approval, and that the approval of the application on a temporary basis would not

jeopardise the implementation of the zoned use. Compared with the last approved application No. A/HSK/55, the current application is submitted by the same applicant for the same use with the same development parameters at the same site, and all time-limited approval conditions under the last approved application have been complied with. In view of the above, the renewal application is considered generally in line with the TPB PG-No. 34C.

- 12.4 Relevant Government departments, including C for T, CE/MN, DSD and D of FS, have no objection to or adverse comment on the application. In order to address concerns on the possible environmental nuisances or the technical requirements of the concerned Government departments, relevant approval conditions are recommended in paragraph 13.2 below. Any non-compliance with these approval conditions would result in revocation of the planning permission and any unauthorised development on the Site would be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will also be advised to follow the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' to minimize the possible environmental impacts on the surrounding areas.
- 12.5 The Committee has approved one previous application for the same applied use at the Site and one similar application within the same "O" zone on the OZP (**Plan A-1**). Approval of the current application is in line with the Committee's previous decisions.
- 12.6 There was one public comment received during the statutory publication period as summarised in paragraph 11 above. The planning considerations and assessments in the above paragraphs are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comment mentioned in paragraph 11, the Planning Department considers that the renewal of planning approval for temporary shop and services (retail shop for pet goods) and dog breeding centre 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 period of 3 years and be renewed from 7.7.2021 to 6.7.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation from 8:00 p.m. to 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from the public road at any time during the planning approval period;
- (c) the dogs shall be kept inside the enclosed structures for dog breeding at all times during the planning approval period;
- (d) no public announcement system, whistle blowing, portable loudspeaker or any form of audio amplification system is allowed to be used at the Site at any time during the planning approval period;

- (e) the existing trees and landscape plantings shall be maintained at all times during the planning approval period;
- (f) the existing drainage facilities shall be maintained at all times during the planning approval period;
- (g) the existing fire service installations shall be maintained in efficient working order at all times during the planning approval period;
- (h) the submission of a condition record of the existing drainage facilities on Site within **3** months from the date of commencement of the renewal planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **7.10.2021**;
- (i) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (j) if the above planning condition (h) is not complied with by the above specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

[Conditions (a), (b), (c) and (d) are the same as the last application No. A/HSK/55 while the previous conditions on the submission and implementation of drainage proposal, tree preservation and landscape proposal and FSIs proposal are replaced by conditions (e), (f), (g) and (h) as the landscaping proposal has been implemented and in accordance with the latest comments from CE/MN, DSD and D of FS]

Advisory clauses

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

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

the applied use is not in line with the planning intention of the "O" zone which is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. There is no strong planning justification to deviate from the 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

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| Appendix I | Application Form with annexes and plans received on 18.3.2021 |
| Appendix Ia | SI received on 22.3.2021 |
| Appendix Ib | SI received on 24.3.2021 |
| Appendix II | Relevant Extracts of 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. 34C) |
| Appendix III | Previous Application |
| Appendix IV | Similar Application |
| Appendix V-1 | Public Comment |
| Appendix VI | Advisory Clauses |
| Drawing A-1 | Vehicular Access Plan |
| Drawing A-2 | Proposed Layout Plan |
| Drawing A-3 | Proposed Landscape & Tree Preservation Plan |
| Drawing A-4 | As-built Drainage Plan |
| Drawing A-5 | Proposed FSIs plan |
| Plan A-1 | Location Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plans A-4a to 4b | Site Photos |

**PLANNING DEPARTMENT
MAY 2021**