

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

**APPLICATION NO. A/HSK/442**

<b><u>Applicant</u></b>	: Mr. LI Kin Sun (李乾新) represented by Metro Planning & Development Company Limited
<b><u>Site</u></b>	: Lot 1315 RP (Part) in D.D. 124 and Adjoining Government Land (GL), San Sang San Tsuen, Yuen Long, New Territories
<b><u>Site Area</u></b>	: About 962 m <sup>2</sup> (including GL of about 204m <sup>2</sup> or 21.2%)
<b><u>Land Status</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2
<b><u>Zonings</u></b>	: “Open Space” (“O”)
<b><u>Application</u></b>	: 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 planning permission for temporary shop and services (retail shop for pet goods) and dog breeding centre for a period of three years at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “O” on the OZP. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within the zones requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with valid planning permission.
- 1.2 The Site is accessible from Tin Ha Road via a local track (**Plans A-2 and A-3**) with the ingress/egress point at the southwest corner. As shown on the submitted layout plan at **Drawing A-2**, there are two 1-2-storey temporary structures (3m and 6.5m high respectively with a total floor area of not more than 990 m<sup>2</sup>) for retail shop, dog breeding centre, site office, toilet and guard room uses. Moreover, a water tank occupying an area of about 40 m<sup>2</sup> will be provided. One parking space for private cars and one loading/unloading bay for light goods vehicles are also provided. According to the applicant, the operation hours are from 9:00 a.m. to 8:00 p.m. daily, including Sundays and public holidays. The vehicular access plan, proposed layout plan and as-built drainage plan submitted by the applicant are shown on **Drawings A-1 to A-3** respectively.

- 1.3 The Site is involved in two previous applications for temporary shop and services (retail shop for pet goods) and dog breeding centre approved by the Rural and New Town Planning Committee (the Committee) of the Board in 2018 and 2021 (details at paragraph 5 below).
- 1.4 Compared with the last application No. A/HSK/301 approved by the Committee on 14.5.2021, the current application is submitted by the same applicant for the same use with a similar layout at the same site, except for the enlargement of the structure for retail shop and dog breeding centre, and addition of a structure for water tank. A comparison of the major development parameters of application No. A/HSK/301 and the current application is summarised as follows:

<b>Major Development Parameters</b>	<b>Last Approved Application (A/HSK/301) (a)</b>	<b>Current Application (A/HSK/442) (b)</b>	<b>Difference (b) – (a)</b>
Applied Use	Temporary shop and services (retail shop for pet goods) and dog breeding centre		<b>No change</b>
Site Area	About 894 m <sup>2</sup>	About 962 m <sup>2</sup>	<b>+68 m<sup>2</sup></b>
Total Floor Area	Not more than 770 m <sup>2</sup>	Not more than 1,030m <sup>2</sup>	<b>+260 m<sup>2</sup></b>
No. of Structures	2 (retail shop, dog breeding centre, toilet and site office; and guard room)	3 (retail shop, dog breeding centre, toilet and site office; guard room; and water tank)	<b>+1</b>
Building Height	Not more than 6.5m (1 to 2 storeys)		<b>No change</b>
No. of Parking Space	1 for Private Cars (5m x 2.5m)		<b>No change</b>
No. of Loading/ Unloading Bay	1 for Light Goods Vehicles (7m x 3.5m)		<b>No change</b>
Operation Hours	from 9:00 a.m. to 8:00 p.m. daily, including Sundays and public holidays		<b>No change</b>

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

- (a) Application Form received on 22.3.2023 **(Appendix I)**
- (b) Further Information (FI) received on 10.5.2023 **(Appendix Ia)**  
*[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 the application form at **Appendices I and Ia**. They can be summarised as follows:

- (a) The current submission is the subject of a valid planning permission No. A/HSK/301. All approval conditions have been complied with. The applicant submits a fresh planning application as the existing structure and the application site are deemed larger than the last planning permission after on-site surveying.
- (b) Shop and services is a Column 2 use in “O” zone. Similar applications in “O” zone has been approved by the Board (e.g. A/HSK/300). The planning intention

of “O” zone would not be jeopardised since the applied development is temporary in nature.

- (c) The applied development is compatible with the surrounding environment. It could serve the local residents by selling pet food and providing dog breeding service.
- (d) The development will have minimal traffic impact, insignificant noise, environmental and drainage impacts, as no operation during sensitive hours and surface U-channel has been provided.
- (e) The applicant has obtained the Dog Breeder Licence (Category B) from the Agriculture, Fisheries and Conservation Department.

### **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 publishing newspaper notice. Detailed information would be deposited at the meeting for Members’ inspection. The “Owner’s Consent/Notification” Requirements under TPG PG-No.31A are not applicable to the GL portion.

### **4. Background**

The Site is not subject to any active planning enforcement action.

### **5. Previous Applications**

The Site is involved in two previous applications (No. A/HSK/55 and 301) for temporary shop and services (retail shop for pet goods) and dog breeding centre uses approved by the Committee on 6.7.2018 and 14.5.2021 respectively with conditions mainly on the considerations that the applied uses were 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. All approval conditions under both permissions have been complied with. Details of the applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**. The previous permission of application No. A/HSK/301 is valid until 6.7.2024.

### **6. Similar Applications**

There are four similar applications (No. A/HSK/51, 300, 351 and 422) for various temporary shop and services use involving the same “O” zone on the OZP which were approved with conditions by the Committee between 2018 and 2022 on the considerations as mentioned in paragraph 5 above. Details of the applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) accessible from Tin Ha Road via a local track; and
- (b) currently used for the applied use with valid planning permission.

7.2 The surrounding areas have the following characteristics:

- (a) to its north and northeast are some open storage yards which are suspected unauthorized developments (UDs), a residential dwelling and unused land;
- (b) to its immediate east is a shop with planning permission; to its further east are an open storage yard and a vehicle repair workshop which are both suspected UD;
- (c) to its south and southeast are several open storage yards and parking of vehicles and workshop uses which are suspected UD, some residential dwellings and unused land; and
- (d) to its west is the Kong Sham Western Highway.

**8. Planning Intentions**

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.

**9. Comments from Relevant Government Departments**

9.1 Apart from the government department as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.

9.2 The following government department has adverse comment on the application:

**Land Administration**

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

- (a) the Site comprises Old Schedule Agricultural Lot (OSAL) held under the Block Government Lease which contains the restriction that no structure are allowed to be erected without the prior approval of the Government and GL;
- (b) he has grave concerns given that there are unauthorised building works and/or uses on Lot 1315 RP in D.D. 124 which is already subject to lease enforcement actions according to case priority. The

lot owner(s) should remedy the lease breaches as demanded by LandsD;

- (c) no permission is given for occupation of GL (about 204 m<sup>2</sup> subject to verification) included in the Site. Any occupation of GL without Government's prior approval is not allowed; and
- (d) there is no lease modification/land exchange application or building plan submission in relation to development at the Site approved/under processing.

## **10. Public Comment Received During Statutory Publication Period**

On 31.3.2023, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for temporary shop and services (retail shop for pet goods) and dog breeding centre for a period of three years at the Site, which falls within the Second Phase development of the Hung Shui Kiu/Ha Tsuen New Development Area and zoned "O" on the OZP. Whilst the applied use is not in line with the planning intention of the "O" zone, the Project Manager (West), Civil Engineering and Development Department and Director of Leisure and Cultural Services (DLCS) have no adverse comment on the application, and DLCS advises that there is no plan to develop the Site into public open space at present. In this regard, approval of the application on a temporary basis of three 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.
- 11.2 The applied use is generally not incompatible with the surrounding land uses which are predominantly occupied by open storage yards, shop and services and residential dwellings (**Plan A-2**).
- 11.3 The current application is to regularise the discrepancies in site area and floor area of the structures under an approved application No. A/HSK/301 after on-site surveying. Compared with the last approved application, the current application involved a slightly larger site for the same use with a slightly different development parameters. All time-limited approval conditions under the planning permission No. A/HSK/301 have been complied with. There has been no major change in planning circumstances pertaining to the Site and the surrounding areas since the previous approval. In view of the above, sympathetic consideration may be given to the current application.
- 11.4 There is no adverse comment from concerned government departments, except DLO/YL, LandsD. DLO/YL expresses concern on the application as there are unauthorized building works at the Site. In this regard, the lot owner(s) should be advised to remedy the lease breaches as demanded by LandsD or apply to LandsD to permit the structures to be erected or regularise any irregularity. In addition, to

minimise any possible environmental impacts and nuisance on the surrounding areas, and to address the technical requirements of the concerned government departments, relevant approval conditions have been recommended in paragraph 12.2 below. Any non-compliance with these approval conditions would result in revocation of the planning permission and any UD on the Site would be subject to planning enforcement action. 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'.

- 11.5 The Committee has approved two previous applications for the same applied use at the Site and four similar applications involving the same "O" zone on the OZP approved for temporary shop and services uses (**Plan A-1**). Approval of the current application is in line with the Committee's previous decisions.

## **12. Planning Department's Views**

- 12.1 Based on the assessments made in paragraph 11 above, the Planning Department considers that the temporary shop and services (retail shop for pet goods) and dog breeding centre could be tolerated for a period of three years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until **19.5.2026**. 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) the dogs shall be kept inside the enclosed structures for dog breeding at all times 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 at the Site at any time during the planning approval period;
- (d) the existing drainage facilities shall be maintained at all times during the planning approval period;
- (e) the submission of a condition record of the existing drainage facilities on Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **19.8.2023**;
- (f) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **19.11.2023**;
- (g) in relation to (f) above, the implementation of the fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **19.2.2024**;
- (h) if any of the above planning condition (a), (b), (c) or (d) 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

- (i) if any of the above planning condition (e), (f) or (g) 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), (d) and (e) are the same as those under the last application No. A/HSK/301; the condition on maintenance of existing fire service installations is replaced by conditions (f) and (g) in accordance with the latest comments from the Director of Fire Services; and restrictions on vehicle queuing and maintenance of existing landscape planting have been removed as per the latest practices]*

#### Advisory clauses

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

- 12.3 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 in the submission for a departure from the planning intentions, even on a temporary basis.

### **13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the Applicant.

### **14. Attachments**

<b>Appendix I</b>	Application Form with Attachments received on 22.3.2023
<b>Appendix Ia</b>	FI received on 10.5.2023
<b>Appendix II</b>	Previous and Similar Applications
<b>Appendix III</b>	Government Departments' General Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Proposed Vehicular Access Plan
<b>Drawing A-2</b>	Proposed Layout Plan
<b>Drawing A-3</b>	As-built Drainage Plan
<b>Plan A-1</b>	Location Plan with Previous and Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo

**Plans A-4a to 4b**      Site Photos

**PLANNING DEPARTMENT  
MAY 2023**