

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/893

- Applicant** : Mr. JOHN Ming-shun
- Site** : Lots 121 (Part), 122, 123 (Part), 124 (Part), 125 (Part), 127 (Part) and 128 (Part) in D.D. 108 and Adjoining Government Land, Ta Shek Wu, Pat Heung, Yuen Long
- Site Area** : About 4,185m² (including about 516.4m² of government land)
- Land Status** : (i) Block Government Lease (demised for agricultural use)
(about 87.7% of the Site)
(ii) Government Land (about 12.3% of the Site)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Residential (Group D)” (“R(D)”) [maximum plot ratio of 0.2 and building height of 2 storeys (6m)]
- Application** : Temporary Dog Training Ground, Dogs and Cats Boarding Establishment and Dog Swimming and Recreational Centre for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary dog training ground, dogs and cats boarding establishment and dog swimming and recreational centre for a period of 3 years. The Site is zoned “R(D)” on the approved Pat Heung OZP No. S/YL-PH/11 (**Plan A-1a**) and the applied use is neither a Column 1 nor Column 2 use in the “R(D)” zone. According to the covering Notes of the OZP, temporary use or development not exceeding a period of three years, notwithstanding that the use or development is not provided for in terms of the OZP, requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without planning permission.
- 1.2 According to the applicant, a total of 26 one to two-storey structures with a total floor area of about 892.21m² and building height ranging from about 2.39m to 6.4m are erected on-site for animal boarding establishment, dog grooming room, dog shower area, changing room, store room, shelter, toilet, pump room, office, staff rest room and electrical switch room, etc. 20 private car parking

spaces and one loading/unloading space for light goods vehicle (LGV) are provided within the Site. The animal boarding establishments accommodating cats and dogs are enclosed and are built by brick with sound-proofing and heat insulation function. 24-hour air ventilation is provided. The operation hours are between 9:00 a.m. and 7:00 p.m. daily (except overnight animal boarding). No dogs and cats are allowed outdoor between 5:00 p.m. to 10:00 a.m. The Site will accommodate a maximum of 27 dogs and 6 cats at any one time, including a maximum of 25 dogs and 6 cats for overnight boarding purposes. Besides, not more than 5 dogs are allowed to enter the swimming pool and lawn at the same time. No public announcement system or whistle blowing will be used at the Site. The Site is accessible via a local track branching off from Fan Kam Road (**Plan A-1**). The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is the subject of thirteen previous applications with the last five applications for temporary dog training ground, dog swimming and recreational centre, and dogs and cats boarding establishment. The last previous application submitted by the same applicant (Application No. A/YL-PH/786) was approved on 3.8.2018. Details of these previous applications are at paragraph 5 below.
- 1.4 A comparison of the major development parameters of the current application and the last previously approved application No. A/YL-PH/786 is given in the following table:

Major Development Parameters	Previous Approved Application No. A/YL-PH/786 (a)	Current Application (b)	Differences (b) – (a)
Applied Use	Temporary Dog Training Ground, Dogs and Cats Boarding Establishment and Dog Swimming and Recreational Centre for a Period of 3 Years	Temporary Dog Training Ground, Dogs and Cats Boarding Establishment and Dog Swimming and Recreational Centre for a Period of 3 Years	Same
Site Area (m ²)	About 4,238.9 (including about 516.4 of GL)	About 4,185 (including about 516.4 of GL)	- 53.9 (- 1.3%)
No. of Structures	24	26	+2 (+1.08%)
Total Floor Area (m ²)	754.27	892.21	+137.94 (18.3%)
Building Height (m)	2.4 to 6.4	2.4 to 6.4	-
Parking Space for Private Cars	20	20	-
Loading / Unloading Bay for LGV	1	1	-

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

- (a) Application form with supplementary information (SI) received on 28.9.2021 **(Appendix I)**
- (b) SI received on 5.10.2021 and 12.10.2021 **(Appendix Ia)**
- (c) Further Information (FI) received on 25.1.2022 **(Appendix Ib)**

1.6 On 26.11.2022, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application for two months as requested by the applicant for preparing FI to address the departmental comments. On 25.1.2022, FI was received from the applicant **(Appendix Ib)**. In light of COVID-19 pandemic and the special work arrangement for government departments, the Board agreed to defer consideration of the application on 1.4.2022. The application is now scheduled for consideration by the Committee at this meeting.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the application form, SIs and FI in **Appendices I, Ia and Ib**. They can be summarised as follows:

- (a) The applicant has rented the Site for some 16 years and five planning permissions had been granted by the Board. All approval conditions of the last approved application No. A/YL-PH/786 had been complied with.
- (b) Five planning permissions for dogs and cats animal boarding establishment operated by the applicant had been granted at another site in Ta Shek Wu Tsuen by the Board (last application No. A/YL-PH/721). However, the land owner refused to renew the contract and the animal boarding establishment was closed down in September 2017. In this regard, the applicant has relocated the animal boarding establishment to the Site, and a boarding license for dogs and cats has been obtained from the Agriculture, Fisheries and Conservation Department (AFCD) for the Site.
- (c) All dogs and cats will be accommodated in the structures between 5:00 p.m. and 10:00 a.m. with sound-proofing and cleaning facilities, and air-conditioning system to ensure no noise and environmental nuisance will be generated. The closest domestic dwellings are at least 80m away, and no complaints on noise nuisance have been received in the past.
- (d) The previous approved application (No. A/YL-PH/786) lapsed in August 2021. Nevertheless, as two of the lots included in the application site needed to revert back to the land owner, rendering the renewal application could not be submitted in a timely manner. The current application is submitted after

completion of the necessary site boundary verification, demolition and construction of the associated animal boarding establishment structures.

- (e) Sewage will be stored at underground sewage tank and removed regularly, and will not pollute the surrounding environment. The amount of landscape planting in the Site will improve the amenity of the area. No adverse traffic impact is envisaged.

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 notices and sending notice to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection. For the government land portion within the Site, TPB PG-No. 31A is not applicable.

4. **Background**

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

5. **Previous Applications**

- 5.1 The Site is involved in 13 previous planning applications. Eight of them for various temporary open storage / workshop are not relevant to this application. The remaining five previous applications (Nos. A/YL-PH/543, 614, 675, 735 and 786) for temporary dog training ground, swimming, recreational centre and dog / cat boarding establishment uses were approved by the Committee between July 2007 and August 2018 on the consideration that the applications would not frustrate the long-term planning intention; the developments were not incompatible with the surrounding land uses; and relevant departments consulted in general had no adverse comments or their concerns could be addressed by appropriate approval conditions. However, the planning permission for Application No. A/YL-PH/543 was revoked in 2009 due to non-compliance with approval condition on provision of FSIs.
- 5.2 Compared with the last approved application No. A/YL-PH/786 submitted by the same applicant as the current application, the current application is for the same applied use with slight changes to the layout and major development parameters, including reduction in the site area and increase in number of structures and total floor area. Details are set out in paragraph 1.4 above. The applicant has complied with all the approval conditions and the planning permission lapsed on 4.8.2021.
- 5.3 Details of these applications are summarized at **Appendix II** and the locations are shown on **Plan A-1b**.

6. **Similar Applications**

There is no similar application within the same “R(D)” zone in the vicinity of the Site in the past five years.

7. **The Site and Its Surrounding Areas (Plans A-2 to A-4b)**

7.1 The Site is:

- (a) largely paved and partly covered with grass turf;
- (b) currently mainly used for the applied use without planning permission; and
- (c) accessible via a local track branching off from Fan Kam Road.

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north is an open storage yard, a vacant site with some vegetation which is approved under Application No. A/YL-PH/887 for temporary transitional housing development;
- (b) to its east across a stream course are residential structures/dwellings, vacant land with some ruins, and fallow / cultivated agricultural land;
- (c) to its south are residential structures /dwellings (closest about 20m away), a plant nursery, parking of vehicles and grass land; and
- (d) to its immediate west is grass land on a slope abutting Fan Kam Road. Across Fan Kam Road are woodland zoned “Conservation Area” on the OZP.

8. **Planning Intention**

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

9. **Comments from Relevant Government Departments**

The government 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.

10. Public Comment Received During the Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory publication period, one public comment from an individual was received. The commenter objects to the application mainly on the grounds that the Site should be used for residential development instead of the applied animal boarding establishment use.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary dog training ground, dogs and cats boarding establishment and dog swimming and recreational centre for a period of 3 years within the “R(D)” zone. The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, and for low-rise, low density residential developments subject to planning permission from the Board. The development is not in line with the planning intention of the “R(D)” zone. Nevertheless, there is no known programme for long-term development at the Site. It is considered that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(D)” zone.
- 11.2 The applied use is considered not incompatible with the surrounding areas, which are rural in character predominated by open storage yard, parking of vehicles, residential structures / dwellings, fallow and cultivated agricultural land, plant nursery and vacant land and woodland.
- 11.3 According to the applicant, the animal boarding establishment structures is enclosed and built by brick with sound-proofing and heat insulation function. 24-hour air ventilation is also provided. No dogs and cats are allowed outdoor between 5:00p.m. and 10:00a.m. No public announcement system and whistle blowing will be used within the Site. No substantiated environmental complaints were received in the past 3 years. Relevant government departments consulted, including DEP, C for T, CE/MN of DSD, CTP/UD&L of PlanD and D of FS, have no adverse comment on the application. To minimize the possible environmental nuisances generated by the development and address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Uses” issued by DEP.
- 11.4 The Site is the subject of five previous applications (No. A/YL-PH/543, 614, 675, 735 and 786) covering more or less the same site and submitted by the same applicant as the current application for a similar or the same applied use related to animal boarding establishment and dog training / recreational centre. All these were approved by the Committee between 2007 and 2018 for reasons as stated in paragraph 5.1 above. The planning permission of the last approved

application was valid until 3.8.2021. There has been no major change of the planning circumstances in the nearby area since approval of the previous applications. Approval of the current application is thus in line with the Committee's previous decisions.

- 11.5 One public comment was received during the statutory publication period objecting to the application as stated in paragraph 10 above. In this regard, the departmental comments and planning considerations and assessments as stated above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, Planning Department considers that the temporary dog training ground, dogs and cats boarding establishment and dog swimming and recreational centre could be tolerated for a period of 3 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 6.5.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m. (except 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 animal boarding establishment structures between 5:00 p.m. and 10:00 a.m., as proposed by the applicant, at all times during the planning approval period;
- (c) all animals shall be kept inside the enclosed animal boarding establishment structures between 10:00 a.m. and 5:00 p.m., except up to 5 dogs are allowed for outdoor activities at the same time, as proposed by the applicant, 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 on the Site, as proposed by the applicant, during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the drainage facilities implemented on the Site shall be maintained at all times during the planning approval period;

- (g) the submission of a record of the existing drainage facilities on the 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 6.8.2022;
- (h) 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 6.11.2022;
- (i) the provision of the fire service installations 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 6.2.2023;
- (j) if any of the above planning condition (a), (b), (c), (d), (e) or (f) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (k) if any of the above planning condition (g), (h) or (i) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

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

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

the development is not in line with the planning intention of the “R(D)” zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. There is no strong planning justification given in the submission for a departure from the planning intention, 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

Appendix I	Application form with SI received on 28.9.2021
Appendix Ia	SI received on 5.10.2021 and 11.10.2021
Appendix Ib	FI received on 25.1.2022
Appendix II	Previous applications
Appendix III	Government department's general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comment
Drawing A-1	Site layout plan
Plan A-1a	Location plan
Plan A-1b	Previous application plan
Plan A-2	Site plan
Plan A-3	Aerial Photo
Plans A-4a & A-4b	Site photos

**PLANNING DEPARTMENT
MAY 2022**