

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

**APPLICATION NO. A/YL-SK/329**

<b><u>Applicant</u></b>	:	Lotus Kennel Limited represented by Goldrich Planners and Surveyors Limited
<b><u>Site</u></b>	:	Lots 670 S.A (Part), 670 S.F (Part), 670 RP (Part), 671 RP (Part) and 685 RP (Part) in D.D. 112 and Adjoining Government Land, Lin Fa Tei, Shek Kong, Yuen Long, New Territories
<b><u>Site Area</u></b>	:	About 2,214 m <sup>2</sup> (including about 392.8 m <sup>2</sup> of Government Land)
<b><u>Land Status</u></b>	:	(i) Block Government Lease (demised for agricultural use) (about 82.3% of the Site)  (ii) Government Land (about 17.7% of the Site)
<b><u>Plan</u></b>	:	Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<b><u>Zoning</u></b>	:	“Village Type Development” (“V”)
<b><u>Application</u></b>	:	Temporary Animal Boarding Establishment (Kennel) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary animal boarding establishment (kennel) for a period of 3 years at the application site (the Site). The Site falls within an area zoned “V” on the approved Shek Kong OZP No. S/YL-SK/9. According to the Notes of the OZP, ‘Animal Boarding Establishment’ is neither Column 1 nor Column 2 use while temporary use or development of any land or building not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission.
- 1.2 According to the applicant, nine 1-storey structures with a total floor area of about 485.8m<sup>2</sup> and building heights ranging from 3m to 6m are provided on-site for kennel, office, reception, dog play area, open shed and rain shelter

uses. A majority of the open areas of the Site is used as grassland with the provision of a water pool and some outdoor dog cages. The Site is accessible via a local track from Kam Sheung Road. 2 private car parking spaces are provided within the Site. Appointment is required for visiting the kennel. The operation hours is 24 hours daily. The applicant advises that the kennels are enclosed with the sound proofing materials and 24-hours mechanical ventilation and air conditioning is provided. Dog training sessions will be carried out between 3:00 p.m. to 6:00 p.m. Other than this period of time, dogs will stay inside the kennel. No public announcement system or whistle blowing will be used at the Site. The layout plan submitted by the applicant is in **Drawing A-1**.

- 1.3 The Site is the subject of six previous applications for temporary animal boarding establishment (kennel) and open storage uses (**Plan A-1b**). The last application No. A/YL-SK/245 for the same applied use was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 19.10.2018 for a period of 3 years. The planning approval was revoked on 24.1.2021 due to non-compliance with approval conditions. Details of these six previous applications are given in paragraph 5 below.
- 1.4 The current application is submitted by the same applicant for the same use on the same site. Compared with the last application No. A/YL-SK/245, there is no change in the development proposal in terms of the use, building height of temporary structures and number of parking spaces, except that there are slight changes in the site layout with an additional rain shelter and increase in floor area from 434.6m<sup>2</sup> to 485.8m<sup>2</sup> (+51.2m<sup>2</sup> or +11.8%).
- 1.5 In support of the application, the applicant has submitted the following documents:
  - (a) Application Form with supplementary planning (**Appendix I**) statement and plans received on 20.4.2022
  - (b) Further Information (FI) received on 6.6.2022 (**Appendix Ia**)

## 2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the supplementary planning statement and FI at **Appendices I and Ia** respectively as summarized below:

- (a) the Site is subject of five previous applications for the same use approved by the Committee. There has been no change in the planning circumstances since the last approval;
- (b) the Site is fenced and is compatible with the surrounding rural setting, which does not generate any adverse visual impact. Besides, landscape and drainage facilities have already been implemented on site to minimize the possible adverse impacts on the surrounding areas. The estimated traffic flow is low;

- (c) drainage proposal and fire service installations (FSIs) proposal are submitted to support the application. Should the application be approved, the applicant will comply with the approval conditions;
- (d) consents of the land owners of Lots 670 S.A and 670 S.F in D.D. 112 have been obtained for the applied use before the implementation of the Small Houses; and
- (e) the applicant has been co-operating with various social groups and organizations on arranging site visits for children and providing seminars on dog training in order to educate the public on dog keeping and training skills.

### 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 notice near entrance of the Site and sending notice to Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection. For Government Land, the requirements as set out in TPB PG-No. 31A are not applicable.

### 4. **Background**

The Site is not subject to any active enforcement action.

### 5. **Previous Applications**

- 5.1 The Site is the subject of six previous planning applications (No. A/YL-SK/59, 144, 159, 194, 211 and 245) for temporary open storage and animal boarding establishment (kennel). Details of the applications are summarized in **Appendix II** and the locations of the sites are shown on **Plan A-1b**.
- 5.2 Application No. A/YL-SK/59 for temporary open storage of construction materials (tools, marble and granite) was rejected by the Committee in 1998, which is not relevant to the subject application.
- 5.3 Applications No. A/YL-SK/144, 159, 194, 211 and 245 for the same applied use submitted by the same applicant as the current application were approved with conditions by the Committee between 2007 and 2018 for the similar grounds that the approval of the application on a temporary basis would not frustrate the planning intention; the development was considered not incompatible with the surrounding land uses; government departments consulted generally had no adverse comment on the application. However, applications No. A/YL-SK/144 and 194 were revoked in 2010 and 2015

respectively due to non-compliance of approval conditions for the provision of FSIs. For the applications No. A/YL-SK/159 and 211, all the approval conditions including those related to drainage and FSIs aspects had been complied with and the planning permissions lapsed in 2013 and 2018 respectively. The last approved application No. A/YL-SK/245 was revoked in 2021 due to non-compliance of approval conditions for the submission of FSIs proposal and provision of FSIs.

## **6. Similar Application**

There is no similar application for temporary animal boarding establishment (kennel) use within the same “V” zone on the OZP.

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

7.1 The Site is:

- (a) currently used for the applied use without valid planning permission; and
- (b) accessible via a local track from Kam Sheung Road.

7.2 The surrounding areas are predominantly rural in character and intermixed with open storage yards, active/fallow farmland, unused/vacant land and domestic structures/dwellings (**Plans A-2 and A-3**):

- (a) to its north are some active/fallow farmland, vacant/unused land and domestic structures/dwellings;
- (b) to its east are some active/fallow farmland and vacant land;
- (c) to its south are fallow farmland land, open storage yards, and a refuse collection point; and
- (d) to its west are unused land and active/fallow farmland, and to the further southwest across a nullah are some open storage/storage yards and workshops.

## **8. Planning Intention**

The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

## 9. **Comments from Relevant Government Departments**

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 Statutory Publication Period (Appendix V)**

The application was published for public inspection. During the statutory public inspection period, 1 public comment was received from an individual. The commenter raises objection to the application mainly on the grounds that the operation has a long history of non-compliance with approval conditions, and the Site could be used for transitional housing and residential use which is in line with the planning intention of the “V” zone.

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

11.1 The application is for a temporary animal boarding establishment (kennel) for a period of 3 years at the Site zoned “V” on the OZP (**Plan A-1a**). The applied use is not in line with the planning intention of the “V” zone, which is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. DLO/YL, LandsD advises that part of the Site within “V” zone, i.e. Lots 670 S.A and 670 S.F in D.D. 112, is the subject of two Small House applications currently being processed. In this regard, the applicant states that consents of the concerned lot owners have been obtained for the applied use before the implementation of the Small Houses. It is considered that approval of the application for a temporary period of 3 years would not jeopardize the long-term planning intention of the “V” zone, including the implementation of the proposed Small Houses under processing by LandsD.

11.2 The development is considered not incompatible with the surrounding areas which are intermixed with active/fallow farmland, vacant/unused land, domestic structures/dwellings and open storage/storage yards. Although there are some domestic structures/dwellings in the vicinity (**Plan A-2**), the applicant states that the kennels are enclosed with sound proofing materials and provided with 24-hours mechanical ventilation and air conditioning, and dogs will only stay outdoor between 3 p.m. to 6 p.m during the dog training sessions. Besides, no public announcement system or whistle blowing will be used at the Site. No environmental complaint concerning the Site was received by DEP in the past three years, and DEP has no adverse comment on the application.

- 11.3 According to the applicant, two private car parking spaces are provided. The applicant indicates that appointment is required for visiting the kennel. The expected vehicular traffic and pedestrian flow generated by the visitors would be low. Relevant government departments consulted, including C for T, DEP, D of FS, CE/MN of DSD and CTP/UD&L of PlanD have no objection to/no adverse comment on the application. It is anticipated that the applied use would not have significant adverse traffic, environmental, fire safety, drainage and landscape impacts on the surrounding areas. The technical requirements of CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2. Besides, the applicant would be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP.
- 11.4 The Site is the subject of five previous applications for the same applied use which were approved with conditions by the Committee between 2007 and 2018. Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 While the last planning approval (No. A/YL-SK/245) was revoked in 2021 due to non-compliance with the approval conditions related to FSIs as stated in paragraph 5 above, the applicant has pledged to comply with approval conditions if the application is approved. Moreover, the applicant has submitted drainage and FSIs proposals in support of the application (**Appendices I and Ia**). CE/MN of DSD and D of FS have no adverse comment on the application. Sympathetic consideration may therefore be given. Should the Committee decide to approve the application, the applicant will be advised that should he fail to comply with the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 11.6 Regarding the public comment on the application as detailed in paragraph 10 above, government departments’ comments and planning assessments above are relevant.

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

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, the Planning Department considers that the temporary animal boarding establishment (kennel) 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 10.6.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) all animal shall be kept inside the enclosed structures, except 10 dogs are allowed for outdoor training activities between 3:00 p.m to 6:00 p.m., as proposed by the applicant, at all times during the planning approval period;
- (b) no public announcement system, whistle blowing, portable loudspeaker or any form of audio amplification system, as proposed by the applicant, is allowed to be used on the Site during the planning approval period;
- (c) the implementation of the accepted 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 **10.3.2023**;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) 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 **10.12.2022**;
- (f) in relation to (e) above, the implementation of the fire service installations proposal 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 **10.3.2023**;
- (g) if the above planning conditions (a), (b) or (d) 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
- (h) if any of the above planning conditions (c), (e) or (f) 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 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 "V" zone which is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. No strong

planning justification has been given 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 for renewal of the planning 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 reasons for rejection should be given to the applicant.

### **14. Attachments**

<b>Appendix I</b>	Application form with supplementary planning statement received on 20.4.2022
<b>Appendix Ia</b>	FI received on 6.6.2022
<b>Appendix II</b>	Previous applications
<b>Appendix III</b>	Government departments' general comments
<b>Appendix IV</b>	Recommended advisory clauses
<b>Appendix V</b>	Public comment
<b>Drawing A-1</b>	Layout plan
<b>Plan A-1a</b>	Location plan
<b>Plan A-1b</b>	Previous application plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plans A-4a and A-4b</b>	Site photos