

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/330

<u>Applicant</u>	:	Mr. CHEUNG Kin-kwok
<u>Site</u>	:	Lots 1353 S.A, 1354 (Part) and 1355 S.A in D.D. 114, Shek Kong, Yuen Long
<u>Site Area</u>	:	About 1,369 m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<u>Zoning</u>	:	“Conservation Area” (“CA”)
<u>Application</u>	:	Renewal of Planning Approval for Temporary Dog Kennels for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to use the application site (the Site) for temporary dog kennels for a period of 3 years. The Site is currently used for the applied use with valid planning permission.
- 1.2 The Site is the subject of 6 previous applications for the same applied use submitted by the same applicant (see paragraph 6).
- 1.3 According to the information provided by the applicant, the current application is the same as the last application No. A/YL-SK/256 in terms of applied use, site area, layout and development parameters. The development involves 10 existing one to two-storey structures with a building height of 2.7m to 4.28m and a total non-domestic floor area of about 430.2m² for dog kennel, dog whelping room, mating room, store room and staff accommodation uses, etc. The Site is accessible via a local track/path leading from Kam Sheung Road to its north. The layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application Form with attachments received on 28.4.2022 **(Appendix I)**
- (b) Further Information (FI) received on 20.6.2022 **(Appendix Ia)**

2. Justifications from the Applicant

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

- (a) enforcement action was taken against the applicant by the Agriculture, Fisheries and Conservation Department (AFCD) in October 2005. The applicant was required to apply for licence for selling dogs and to obtain planning approval from the Town Planning Board (the Board);
- (b) all the structures have been on the Site for about 30 years for rearing of animals. Licence for sewage disposal has been obtained from the Environmental Protection Department (EPD) since 1993. There is a septic tank on site to handle the sewage, which will be cleaned regularly; and
- (c) there is no change to the existing fire services installations (FSIs) facilities approved under the previous application No. A/YL-SK/256.

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

The applicant is one of the two “current land owners”. In respect of the other “current land owner”, the applicant 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 having obtained consent from the other land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The 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. 34D) are relevant to this application. The relevant assessment criteria are attached at **Appendix II**.

5. Background

The Site is not subject to any active enforcement action.

6. **Previous Applications**

- 6.1 The Site is involved in 6 previous applications (No. A/YL-SK/131, 150, 173, 190, 217 and 256) for the same use at the Site submitted by the same applicant, which were all approved by the Committee for a period of 3 years from 2006 to 2019. Details of the applications are summarized in **Appendix III** while their locations are shown on **Plan A-1**.
- 6.2 Application No. A/YL-SK/131 was approved with conditions by the Committee in 2006 mainly on the considerations that the site was located in a remote location surrounded by dense woodland and was well screened by trees at the entrance; it was previously used as a chicken farm and structures which had already been in existence at that time; the temporary use would unlikely have adverse environmental impact on the surrounding areas; the Director of Agriculture, Fisheries and Conservation (DAFC) had no adverse comment on the application from the ecological point of view as the site had been substantially paved and developed and only some fruit trees or common species were found on the site; sympathetic consideration could be given as it would be difficult for the applicant to find other suitable place for relocation of the dog kennels.
- 6.3 Further to the planning approval above, five applications (No. A/YL-SK/150, 173, 190, 217 and 256) for the same applied use at the Site were subsequently approved with conditions by the Committee from 2009 to 2019 on similar considerations as stated in paragraph 6.2 above. One of the approvals under application No. A/YL-SK/173 was revoked in 2013 due to non-compliance with approval conditions. The planning permission under the last application No. A/YL-SK/256 is still valid until 2.8.2022. All the approval conditions have been complied with.

7. **Similar Application**

There is no similar application within the same “CA” zone on the OZP.

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

- 8.1 The Site is:
 - (a) paved and fenced off; and
 - (b) connected to Kam Sheung Road (about 250m to its north) via a local track/path, which is partly accessible by vehicles.

8.2 The surrounding areas are predominantly rural in character surrounded by active/fallow farmland, scattered residential dwellings/structures, and vacant/unused land:

- (a) to its north within the “Agriculture” (“AGR”) zone are mainly active/fallow farmland, scattered residential dwellings/structures and vacant land;
- (b) to its immediate east are residential dwellings/structures;
- (c) to its south, west and further east within the “CA” zone are densely vegetated slopes; and
- (d) to its further south up the vegetated slopes is Tai Lam Country Park (**Plan A-1**).

9. Planning Intention

The planning intention of the “CA” zone is to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Country Park from the adverse effects of development. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or the development is an essential project with overriding public interest may be permitted. The slopes at the southern part of the Planning Scheme Area of the OZP are zoned “CA” (covering the subject “CA” zone) for the purpose of giving added protection to the adjoining Tai Lam Country Park and Tai Mo Shan Country Park.

10. Comments from Relevant Government Departments

All the relevant 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 IV and V** respectively.

11. Public Comment Received During Statutory Publication Period

The application was published for public inspection. During the statutory public inspection period, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of the planning permission for temporary dog kennels for a period of 3 years in the “CA” zone. The planning intention of the “CA” zone is intended to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Country Park from the adverse effects of development. There is a general presumption against development in “CA” zone. The Site was the subject of 6 previous approved planning applications for the same applied use since 2006. Moreover, DAFC has no adverse comment on the current application from the nature conservation perspective. It is considered that continuation of the temporary dog kennels at the Site will not frustrate the long term planning intention of the “CA” zone.
- 12.2 The Site is located at the fringe of the “CA” zone and the development is considered not incompatible with the other rural residential and agricultural land uses in the vicinity. As advised by CTP/UD&L of PlanD, significant adverse landscape impact arising from continuing the applied use is not anticipated.
- 12.3 The application is in line with the TPB PG-No. 34D in that 6 previous approvals for the same applied use had been granted since 2006 and all approval conditions of the last approved application (No. A/YL-SK/256) have been complied with. Compared with the last approved application, the current application submitted by the same applicant is the same in terms of site area, layout and development parameters. As there has been no major change in planning circumstances since the last approval, sympathetic consideration could be given to the current application. Approval of the current application is also in line with the Committee’s previous decisions.
- 12.4 Other relevant government departments consulted including C for T, CE/MN of DSD and D of FS have no objection to or no adverse comment on the application. There was no environmental complaint concerning the Site received by DEP in the past three years. The technical requirements of CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority.
- 12.5 There is no public comment received during the public inspection period.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above, the Planning Department considers that the temporary dog kennels could be tolerated for a 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 3.8.2022 until 2.8.2025. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the existing trees on the Site shall be maintained at all times during the planning approval period;
- (b) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) the submission of a record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **24.9.2022**;
- (d) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (e) if any of 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;
- (f) if the above planning condition (c) 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
- (g) 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 at **Appendix V**.

- 13.3 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 "CA" zone, which is to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Country Park from the adverse effects of development. There is a general presumption against development in this zone. No strong justification has been given in

the submission for a departure 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 for renewal of the planning 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 reasons for rejection should be given to the applicant.

15. Attachments

Appendix I	Application form with attachments received on 28.4.2022
Appendix Ia	FI received on 20.6.2022
Appendix II	Relevant Extracts of Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Condition for Temporary Use or Development (TPB PG-No. 34D)
Appendix III	Previous applications
Appendix IV	Government departments' general comments
Appendix V	Recommended 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 and A-4b	Site photos