

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/815

- Applicant** : Miss Kaur RAJWANT
- Site** : Lot 357 in D.D. 114, Kam Tin Road, Pat Heung, Yuen Long
- Site Area** : About 194.8m²
- Lease** : Block Government Lease (demised for agricultural use)
- 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 a maximum building height of 2 storeys (6m)]
- Application** : Proposed Temporary Shop and Services (Dog Grooming and Pet Products) with Ancillary Office and Staff Resting Place for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application Site (the Site) for proposed temporary shop and services (dog grooming and pet products) with ancillary office and staff resting place for a period of 3 years. According to the Notes of the “R(D)” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by a two-storey structures for storage use.
- 1.2 The Site is subject to 7 previous applications for temporary open storage of vehicles and/ or vehicle parts (with/ without ancillary office) use. All the applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 1999 and 2015. The planning permission of the last application No. A/YL-PH/714 was revoked on 17.10.2015 due to non-compliance with approval conditions.
- 1.3 According to the applicant, the proposed development involves 2 one to two-storey structures with a total floor area of 171.95m² and building height of 2.44 to 5.18m for dog resting place, dog grooming room and shower room, store room, kitchen, toilet, pantry, office and resting place for staff. The business

hours are from 9:00 am to 7:00 pm daily (including public holidays). No domestic uses or overnight accommodation for staff is proposed. There will be dogs staying at the Site after business hours but will be kept indoors. A total of 2 private car parking spaces will be provided within the Site, and the Site is accessible from Kam Tin Road. The location plan, layout plan, floor plans and fire services installation proposal as submitted by the applicant are at **Drawings A-1 to A-6**.

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

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|-----|--|----------------------|
| (a) | Application form and planning statement with plans received on 15.7.2019 | (Appendix I) |
| (b) | Further Information (FI) received on 29.8.2019 providing responses to departmental comments and clarification on operational details | (Appendix Ia) |
| (c) | Further Information (FI) received on 2.9.2019 providing responses to departmental comments | (Appendix Ib) |

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the planning statement at **Appendix I**. They are summarised as follows:

- (a) There are no dog grooming shops in the area and many residents nearby who have dogs would need such a service.
- (b) Car parking spaces are proposed within the Site for clients when dropping off and picking up their dogs. No adverse traffic impacts are anticipated.
- (c) The dogs coming in for grooming will roam around in the outdoor area to get familiarized for 10-15 minutes and then will go for grooming. Afterwards they will stay within the dog resting place until they are picked up by their owners. As such, no dogs will be roaming around outdoors for a long period of time, and thus no nuisance to the public are anticipated.

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 notification letter to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site was not a subject of any outstanding enforcement case and is currently not subject to any planning enforcement action. However, should there be sufficient evidence to prove that unauthorized development takes place at the Site, appropriate enforcement action may be instigated.

5. Previous Applications

- 5.1 The Site was involved in 7 previous applications (No. A/YL-PH/292, 336, 391, 498, 595, 631 and 714) for temporary open storage of vehicles and / or vehicle parts (with / without ancillary office) use. All the applications were approved with conditions by the Committee between 1999 and 2015. Details of the applications are summarized in **Appendix II** and the locations of the sites are shown on **Plan A-1b**.
- 5.2 Applications No. A/YL-PH/292, 336, 391 and 498 involving a larger site area for a period of 12 months to 3 years were approved with conditions between 1999 to 2005 mainly for the reasons that no workshop use would be carried out on-site; the proposed development would unlikely cause adverse traffic and environmental impacts; the proposed development was not incompatible with the surrounding uses; relevant Government departments had no adverse comment; and generally in line with the Town Planning Board Guidelines on “Application for Open Storage and Port Back-up Uses” in that previous approvals had been granted. However, the planning permission of Application No. A/YL-PH/336 was revoked in 2001 due to non-compliance with approval condition related to the provision of drainage facilities.
- 5.3 Applications No. A/YL-PH/595, 631 and 714 for a period of 3 years were approved with conditions between 2009 and 2015 on similar consideration as mentioned in paragraph 5.2 above. However, the planning permissions for Application nos. A/YL-PH/595 and 714 were revoked in 2011 and 2015 due to non-compliance with approval conditions related to implementation of landscape proposal and submission and implementation of fire services installations proposal respectively.

6. Similar Application

There is no similar application within the same “R(D)” zone in the OZP.

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

- 7.1 The Site is:
- (a) occupied by a two-storey structure for storage use; and
 - (b) accessible from Kam Tin Road (**Plan A-2**).

- 7.2 The surrounding areas are rural in character, with a mix of mainly open storage yards, workshops, warehouses, parking of vehicles and vacant / unused land with some residential dwellings/structures and agricultural farmland. The open storage yards, workshops, warehouses, and parking of vehicles in the “R(D)” zone are suspected unauthorized development subject to enforcement action by the Planning Authority:
- (a) to its north, east and west are mainly open storage yards, workshops, warehouse, parking of vehicles and vacant land with scattered residential dwellings/structures;
 - (b) to its further northeast and northwest is vegetated unused land within the “Conservation Area” (“CA”) zone; and
 - (c) to its south across Kam Tin Road is an area zoned “Open Storage” with mainly open storage yards and some residential dwellings/ structures and fallow agricultural land.

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

- 9.1 The following Government departments have been consulted and their views are summarized as follows:

Land Administration

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

- (a) The Site comprises an Old Schedule Agricultural Lot 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) The Site is accessible from Kam Tin Road via Government Land (GL) *and private land*. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.

- (d) A site inspection found that unauthorized structures are erected on the lot and they are being used for domestic purposes. However, according to the existing policy, application for regularization by way of Short Term Wavier etc. of unauthorized structures for domestic use (including the staff resting place) on private agricultural land will not be entertained. His office will take follow up lease enforcement actions in respect of the lot.
- (e) Hence, even if the Board approves this application, his office will not consider to regularize any structures for domestic use of the lot.

Traffic

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

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Approval condition on no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period should be incorporated.
- (c) The applicant is advised that the Site is connected to the public road network via a section of a local access road which is not managed by Transport Department (TD). The land status of the local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) His department is / shall not be responsible for the maintenance of any access connecting the Site and Kam Tin Road.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.

Environment

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

- (a) No environmental complaint concerning the Site was received in the past 3 years.

- (b) Should the application be approved, the applicant should be advised to adopt the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites” issued by the DEP to minimise any potential impact.

Nature Conservation

9.1.5 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) Noting that the Site is paved and disturbed, he has no comment on the application from nature conservation point of view.
- (b) The Site does not associate with any licence granted by his department, nor have they received any application regarding the Site.
- (c) Should the application be approved, the applicant is reminded to obtain a valid licence from his department, if the applicant wants to:
 - (i) sell any animal;
 - (ii) run animal boarding business; or
 - (iii) exhibit any animal in return for a fee.
- (d) The applicant is also reminded that the dogs kept should be properly licensed as in accordance with Cap. 421 Rabies Ordinance, and is reminded to observe Cap. 169 Prevention of Cruelty to Animals Ordinance at all times.

Drainage

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

- (a) He has no objection in principle to the proposed development from public drainage point of view.
- (b) Should the Board approve the application, approval conditions requiring the applicant to: (i) submit a drainage proposal; and (ii) to implement and maintain the drainage proposal for the proposed development to the satisfaction of the Director of Drainage Services or of the Board should be included.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) The submitted fire service installations proposal is considered acceptable to his department. The applicant is advised that the installation/maintenance/ modification/repair work of FSI shall be undertaken by a Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/maintenance/ modification/repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to the D of FS.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Food and Environmental Hygiene

9.1.8 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) If any Food and Environmental Hygiene Department (FEHD)'s facility is affected by the development, FEHD's prior consent must be obtained. Reprovisioning of the affected facilities by the applicant up to the satisfaction of FEHD may be required. Besides, the applicant should provide sufficient amount of additional recurrent cost for management and maintenance of the reprovisioned facilities to FEHD.
- (b) Proper licence / permit issued by his department is required if there is any food business / catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public and the operation of any business should not cause any obstruction.
- (c) If the proposal involves any commercial/trading activities, no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

Building Matters

9.1.9 Comments of the Chief Building Surveyor/NT West, Buildings Department (CBS/NTW, BD):

- (a) As there is no record of approval by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are Unauthorized Building Works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (d) Before any new building works (including containers/ open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (f) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.
- (g) If the proposed use under application is subject to issue of a license, the applicant should be reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.

District Officer's Comments

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

He has not received any comments from locals upon close of consultation and he has no particular comments on the application.

9.2 The following Government departments have no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Director of Electrical and Mechanical Services;
- (c) Project Manager (West), Civil Engineering and Development Department; and
- (d) Commissioner of Police.

10. Public Comment Received During the Statutory Publication Period

On 23.7.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one comment from an individual was received. The commenter objected to the application on the grounds that the Site is being used for auto repair shop; and brownfield uses hindering the development of sites for their intended use should be phased out (**Appendix III**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (dog grooming and pet products) with ancillary office and staff resting place at the Site zoned "R(D)" on the OZP. 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. Although the proposed use is not entirely in line with the planning intention of the "R(D)" zone, there is no known programme for long-term development at the Site. Approval of the application on a temporary basis would not jeopardize the long-term planning intention of the "R(D)" zone.
- 11.2 The proposed development is considered not incompatible with the surrounding areas, which consists of mainly open storage yards, workshops, warehouse, parking of vehicles and vacant / unused land with some residential dwellings / structures (**Plan A-2**). According to the applicant, the proposed dog grooming services is intended to serve the nearby dogs owners.
- 11.3 Relevant departments consulted, including DEP, C for T, CHE/NTW of HyD, D of FS, CE/MN of DSD and DFEH have no adverse comment on the application.

According to the applicant, the dogs will stay in the outdoor area for about 10-15 minutes before grooming, after which they will stay within the dog resting place until they are picked up, hence no dogs will be roaming around outdoors for a long period of time. To minimize any possible environmental nuisance generated by the proposed development, approval conditions restricting the operation hours and dog activity outdoor are recommended in paragraphs 12.2 (a) and (b) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on-site will be subject to enforcement action by the Planning Authority. Besides, the applicant will be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. Moreover, the technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (c) to (g) below.

- 11.4 The Site is subject to 7 previous planning applications for various temporary open storage uses. These applications were for different uses from the current application, and the last one (No. A/YL-PH/714) was revoked on 17.10.2015. There is no similar application in the same “R(D)” zone.
- 11.5 One public comment received during the statutory publication period objected to the application as detailed in paragraph 10 above. In this regard, the planning considerations and assessments and departmental comments 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 as mentioned in paragraph 10 above, Planning Department has no objection to the proposed temporary shop and services (dog grooming and pet products) with ancillary office and staff resting place 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 6.9.2022. 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., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) all animals shall be kept indoors between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, at all times during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;

- (d) the submission of drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 6.3.2020;
- (e) in relation to (d) above, the implementation of 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 6.6.2020;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) the implementation of the accepted fire service installations 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 6.3.2020;
- (h) if any of the above planning conditions (a), (b), (c) 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
- (i) if any of the above planning conditions (d), (e) or (g) 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 proposed 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 and planning statement with plans received on 15.7.2019
Appendix Ia	Further Information (FI) received on 29.8.2019 providing responses to departmental comments and clarification on operational details
Appendix Ib	Further Information (FI) received on 2.9.2019 providing responses to departmental comments
Appendix II	Previous applications covering the Site
Appendix III	Public comment
Appendix IV	Advisory Clauses
Drawing A-1	Location Plan
Drawing A-2	Layout Plan
Drawings A-3 and A-4	Floor Plans
Drawings A-5 and A-6	Fire Service Installations Proposal
Plan A-1a	Location plan
Plan A-1b	Previous application plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
SEPT 2019**