

**Relevant Extracts of Town Planning Board Guidelines No.34C on
'Renewal of Planning Approval and Extension of Time for Compliance
with Planning Conditions for Temporary Use or Development'
(TPB PG- No. 34C)**

1. The criteria for assessing applications for renewal of planning approval include:
 - (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
 - (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
 - (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
 - (d) whether the approval period sought is reasonable; and
 - (e) any other relevant considerations.
2. Under normal circumstances, the approval period for renewal should not be longer than the original validity period of the temporary approval. In general, the Board is unlikely to grant an approval period exceeding three years unless there are strong justifications and the period is allowed for under the relevant statutory plans. Depending on the circumstances of each case, the Board could determine the appropriate approval period, which may be shorter than the time under request.

Previous Application covering the Application Site on Kam Tin North OZP

Approved Application

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
1	A/YL-KTN/519	Proposed Animal Boarding Establishment (Cattery) for a period of 3 years	24.6.2016	(1), (2), (3), (4), (5), (6), (7)

Approval Conditions

- (1) Restriction on operation time
- (2) Submission/implementation of landscape proposal
- (3) No reversing of vehicle is allowed
- (4) Submission / implementation of drainage proposal
- (5) Submission/ provision of fire service installations (FSIs) proposal
- (6) Revocation of planning approval for non-compliance with conditions by a specified date or during the planning approval period
- (7) Reinstatement of the application site upon expiry of planning permission

Similar Applications in the same "Agriculture" Zone on the Kam Tin North OZP

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Condition(s)</u>
1	A/YL-KTN/232	Animal Boarding Establishment (Kennel and Cattery)	29.7.2005 (on temporary basis for a period of 3 years) [revoked on 29.1.2006]	(1), (2), (4), (5)
2	A/YL-KTN/251	Animal Boarding Establishment and Ancillary Facilities (Kennel and Cattery)	7.7.2006 (on temporary basis for a period of 2 years)	(1), (2), (4), (5), (6)
3	A/YL-KTN/253	Animal Boarding Establishment (Kennel)	4.8.2006 (on temporary basis for a period of 3 years)	(1), (2), (3), (4), (5)
4	A/YL-KTN/304	Animal Boarding Establishment with Ancillary Facilities (Kennel and Cattery)	19.9.2008 (on temporary basis for a period of 3 years) [revoked on 19.3.2010]	(4), (5), (6), (7), (8), (9)
5	A/YL-KTN/308	Temporary Animal Boarding Establishment (Kennel) and Breeding Area for a Period of 3 Years	5.9.2008 [revoked on 5.3.2009]	(1), (4), (6), (7)
6	A/YL-KTN/324	Temporary Animal Boarding Establishment (Kennel) and Breeding Area for Dogs for a Period of 3 Years.	22.5.2009 [revoked on 22.5.2011]	(2), (4), (6), (8)
7	A/YL-KTN/377	Temporary Animal Boarding Establishment with Ancillary Facilities for a period of 5 years (Kennel and Cattery)	30.3.2012 (on temporary basis for a period of 3 years) [revoked on 30.9.2012]	(1), (2), (4), (5), (6), (9)
8	A/YL-KTN/410	Temporary Animal Boarding Establishment with Ancillary Facilities for a period of 5 years (Kennel)	17.1.2014 (on temporary basis for a period of 2 years) [revoked on 17.7.2014]	(1), (2), (4), (5), (6), (9)
9	A/YL-KTN/478	Animal Boarding Establishment (Kennel)	6.11.2015 (on temporary basis for a period of 3 years) [revoked on 6.5.2016]	(1), (2), (4), (5), (6), (10), (11), (12)

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Condition(s)</u>
10	A/YL-KTN/489	Temporary Animal Boarding Establishment with Ancillary Facilities for a period of 3 years	5.2.2016	(1), (2), (4), (5), (6), (9), (10), (13)
11	A/YL-KTN/543	Proposed Temporary Animal Boarding Establishment (Cattery) for a Period of 3 Years	23.12.2016 [revoked on 23.12.2017]	(1), (2), (4), (5), (6), (10), (13), (14)
12	A/YL-KTN/556	Proposed Temporary Animal Boarding Establishment (Dog Kennel cum Dog Recreation Centre) for a Period of 3 Years	28.4.2017	(1), (2), (6), (10), (14), (15)
13	A/YL-KTN/562	Proposed Temporary Animal Boarding Establishment for a Period of 3 Years	11.8.2017	(1), (2), (4), (5), (6), (10), (14), (15), (16)
14	A/YL-KTN/577	Proposed Temporary Animal Boarding Establishment for a Period of 3 Years	26.1.2018	(1), (2), (4), (5), (6), (10), (14), (15)
15	A/YL-KTN/588	Proposed Temporary Animal Boarding Establishment for a Period of 3 Years	16.3.2018 [revoked on 16.9.2018]	(1), (2), (4), (5), (6), (10), (14), (15), (16), (17)
16	A/YL-KTN/590	Proposed Temporary Animal Boarding Establishment for a Period of 3 Years	16.3.2018 [revoked on 16.9.2018]	(1), (2), (4), (5), (6), (10), (14), (15), (16), (17)
17	A/YL-KTN/605	Proposed Temporary Animal Boarding Establishment for a Period of 3 Years	15.6.2018	(1), (2), (4), (5), (6), (10), (14), (15), (16)
18	A/YL-KTN/616	Proposed Temporary Animal Boarding Establishment for a Period of 3 Years	17.8.2018	(1), (4), (5), (6), (10), (14), (15), (16)
19	A/YL-KTN/617	Proposed Temporary Animal Boarding Establishment for a Period of 3 Years	17.8.2018	(1), (2), (4), (5), (6), (10), (14), (15), (16)
20	A/YL-KTN/623	Proposed Temporary Animal Boarding Establishment for a Period of 3 Years	21.9.2018	(1), (2), (4), (5), (6), (10), (14), (15), (16)
21	A/YL-KTN/638	Proposed Temporary Animal Boarding Establishment for a Period of 5 Years	1.2.2019	(2), (4), (5), (6), (8), (10), (14), (15), (16)
22	A/YL-KTN/639	Renewal of Planning Approval for Temporary "Animal Boarding Establishment with Ancillary Facilities" for a Period of 3 Years	1.2.2019	(2), (4), (5), (6), (8), (10), (14), (15), (16)
23	A/YL-KTN/642	Proposed Temporary Animal Boarding Establishment for a Period of 3 Years	22.2.2019	(1), (2), (4), (5), (6), (10), (14), (15), (16)
24	A/YL-KTN/645	Proposed Temporary Animal Boarding Establishment for a Period of 3 Years	12.4.2019	(2), (4), (5), (6), (10), (12), (14), (15), (16)

Approval Conditions:

- (1) Submission / implementation of landscaping / tree preservation proposals / replacement of tree planting.
- (2) Submission / implementation /maintenance of drainage proposal / facilities.
- (3) Provision of a 9-litre water type/3 kg dry powder fire extinguisher
- (4) Revocation of planning approval for non-compliance with conditions by a specified date or during the planning approval period.
- (5) Reinstatement of the application site upon expiry of planning permission.
- (6) Submission/ provision of fire service installations (FSIs) and/or Emergency Vehicular Access (EVA)
- (7) Maintenance of existing drainage facilities
- (8) Maintenance of existing landscape planting/trees
- (9) Submission/implementation of appropriate mitigation measures in order not to cause any disturbance/contamination to the fish ponds nearby
- (10) Restriction on operation time
- (11) No activity that would generate dog barking noise shall be carried out in the outdoor area of the Site.
- (12) The boundary fencing of the Site shall be maintained at all times
- (13) No reversing of vehicles into or out of the Site is allowed at all times
- (14) No queuing back of vehicles to public road from the Site is allowed at any time/no vehicle is allowed to queue back to or reverse onto/from public road
- (15) No public announcement system and whistle blowing at all times/ no public announcement system, whistle blowing, portable loud speaker, or any form of audio amplification system on the site at any time
- (16) All the dogs/animals shall be kept inside the enclosed structures at all time or at specific time
- (17) No vehicle exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the site

Rejected Application

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Main Reason(s) for Rejection</u>
1	A/YL-KTN/156	Proposed Small Scale Dog Kennel for a Period of 3 Years	8.11.2002	(1), (2)

Rejection Reasons:

- (1) The proposed development was not in line with the planning intention of the "Agriculture" zone and no strong justification in the submission for a departure from such planning intention, even on a temporary basis.
- (2) No information in the submission to demonstrate that the proposed development would not cause adverse environmental and drainage impacts on the surrounding areas.

Advisory Clauses

- (a) to resolve any land issues relating to the development with the concerned owner(s) of the Site;
- (b) note DLO/YL, LandsD's comments that the Site comprises Old Schedule Agricultural Lots 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. The Site is accessible from Kong Tai 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. 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. The STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. The owner(s) of the lot(s) without STW will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD;
- (c) note C for T's comments 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 the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly;
- (d) note CHE/NTW, HyD's comments that HyD does not and will not maintain any access (including Kong Tai Road) connecting the Site and Chi Ho Road or Kam Tai Road. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (e) note DEP's comments that the applicant is advised to properly design and maintain the facilities and follow the relevant mitigation measures and requirements in the revised "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" to minimize any potential environmental nuisances. Suitable mitigation measures should also be implemented to minimize potential odour nuisance. The applicant is also reminded to observe the requirements under the Water Pollution Control Ordinance if there is any effluent discharge from the proposed use. It is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures;

- (f) note DAFC's comments that the applicant is reminded that under the current legislation, any person who provides food and accommodation for animals in return for a fee paid by the owner must apply for a Boarding Establishment Licence from his department;
- (g) to note CBS/NTW, BD's comments that before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise, they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO). If the existing structures (not being New Territories Exempted House) are erected on leased land without the approval of the BD, they are UBW under the BO and should not be designated for any proposed use under the application. 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. 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. 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; and
- (h) note DFEH's comments that 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 project proponent up to the satisfaction of FEHD may be required. Besides, the project proponent should provide sufficient amount of additional recurrent cost for management and maintenance of the reprovisioned facilities to FEHD. 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. If the proposal involves any commercial/trading activities, its state should not as to be a nuisance or injurious or dangerous to health and surrounding environment. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses. Any animal carcass/ parts shall be properly wrapped or bagged before disposal.