

RNTPC Paper No. A/YL-PN/55B
For Consideration by
the Rural and New Town
Planning Committee
on 8.3.2019

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PN/55

- Applicant** : Annie's Lane Dog Sanctuary Association Limited represented by Harvest Surveyors Limited
- Site** : Government Land in D.D. 135, Sheung Pak Nai, Yuen Long, New Territories
- Site Area** : About 1,850m²
- Land Status** : Government Land (GL)
- Plan** : Approved Sheung Pak Nai and Ha Pak Nai Outline Zoning Plan (OZP) No. S/YL-PN/9
- Zoning** : "Agriculture" ("AGR") (about 99.7%) and area shown as 'Road' (about 0.3%)
- Application** : Temporary Animal Boarding Establishment 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 animal boarding establishment for a period of three years (**Plan A-1**). The Site mainly falls within an area zoned "AGR" (about 99.7%) with a minor portion straddling on an area shown as 'Road' (about 0.3%) on the approved Sheung Pak Nai and Ha Pak Nai Outline Zoning Plan (OZP) No. S/YL-PN/9 (**Plan A-1**). According to the Notes of the OZP, 'Animal Boarding Establishment' within the "AGR" zone is a Column 2 use which requires permission from the Town Planning Board (the Board). The Site is currently occupied for the applied use without valid planning permission.
- 1.2 According to the information submitted by the applicant, the major development parameters of the development are as follows:

Site area	About 1,850m ²
Total floor area	869.9m ²
No. of structures	8 (2 for kennels, 1 for kennel and storage, 2 for ancillary offices (including clinic room and changing room for staff), 1 for storage, 1 for carpark and 1 for covered walkway)

Height of structures	2.3m to 4.8m; 1 to 2 storeys
No. of parking spaces	4 non-fixed private car parking spaces
Loading/ unloading spaces	Nil
Operation hours	9:00 a.m. to 5:00 p.m. daily (except Sundays and public holidays)

- 1.3 According to the applicant, the temporary animal boarding establishment will accommodate 80 dogs, 10 tortoises and 20 birds. As shown on the layout plan at **Drawing A-1**, Structure B is an outdoor kennel (with canopy) while Structures C and F are enclosed kennels. Bladeless fans will be installed for air ventilation. The open area is for exercising and training of dogs. A septic tank and soakaway system will be installed. According to the applicant, the estimated trip generation and attraction rate is about 2 to 3 daily. Four non-fixed private car parking spaces will be provided at the Site. The operation hours are from 9:00 a.m. to 5:00 p.m. daily, except Sundays and public holidays. There are 50 dogs staying at the Site after business hours and a staff will stay at the Site to take care of the animals after business hours and during holidays. No public announcement system or whistle-blowing will be used at the Site. 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 and attachments with supporting letters (Appendix I) from District Council member and Village Representative received on 7.6.2018
 - (b) Further information (FI) received on 23.7.2018 clarifying (Appendix Ia) the trip generation (*accepted and exempted from publication and recounting requirements*)
 - (c) FI received on 8.10.2018 clarifying number of animals (Appendix Ib) staying in the establishment and responding to departmental comments (*accepted and exempted from publication and recounting requirements*)
 - (d) FI received on 7.1.2019 responding to departmental (Appendix Ic) comments and providing an Environmental Assessment (*accepted but not exempted from publication and recounting requirements*)
 - (e) FI received on 27.2.2019 clarifying no breeding of animals (Appendix Id) at the Site and the location of the proposed septic tank and soakaway pit with a revised layout plan (*accepted and exempted from publication and recounting requirements*)
- 1.5 On 17.8.2018 and 7.12.2018, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's requests to defer making a decision on the application, each for two months, to allow time for the preparation of FI to address departmental comments. Subsequently, the applicant submitted FI to address comments from Government departments. The application is 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 Attachment of the Application Form in **Appendix I** and the FI at **Appendix Ib**. They can be summarized as follows:

- (a) The applicant is a non-profit making organization. Its mission is to receive old dogs from owners. In fact, the applicant is applying for charity status under Section 88 of the Inland Revenue Ordinance.
- (b) The applied use is temporary in nature and the Site is very small and does not constitute a significant portion of the “AGR” zone. It is considered that the approval of the application on a temporary basis for a period of 3 years would not jeopardize the long-term planning intention of the area.
- (c) The Site is surrounded by rural agricultural development. The development is considered not incompatible with the surrounding rural character predominated by active/fallow agricultural land, temporary domestic structures and vacant land. Adverse landscape impact arising from the proposed use is not expected.
- (d) Surface runoff from the Site will be drained to the watercourse, precautionary measures to avoid pollution to the watercourse will be provided, if necessary.
- (e) Septic tank and soakaway system will be installed to discharge/store dog wastes within the Site with regular cleansing.
- (f) There are sufficient internal manoeuvring spaces within the Site to prevent vehicles reversing at the local access road.

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

As the Site involves GL only, the “owner’s consent/notification” 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) is not applicable to the application.

4. Background

The Site is not subject to any active enforcement action.

5. Previous Application

- 5.1 The Site is subject to one previous application. Details of the previous application are at **Appendix II** and its location is shown on **Plan A-1**.
- 5.2 Application No. A/YL-HT/414 covering a very large area of 52 ha with 79% of the Site falling within the “Green Belt” (“GB”) and “AGR” zones of the then Ha Tsuen OZP and 21% within the “AGR” zone of the Sheung Pak Nai and Ha Pak Nai OZP, for temporary racing circuit for a period of 3 years, was rejected by the Committee on 29.7.2005. The reasons were not in line with the planning

intentions; insufficient information to demonstrate that it would not have adverse impacts on the Site and the adjacent areas; and setting an undesirable precedent.

6. Similar Application

There is no similar application for animal boarding establishment use within the “AGR” zone on the OZP.

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

7.1 The Site is:

- (a) currently occupied for the applied use without valid planning permission; and
- (b) abuts and accessible from Nim Wan Road to its immediate northwest (**Plan A-2**).

7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) predominantly rural in character;
- (b) to the north across Nim Wan Road are a residential dwelling, fishing ground covered by valid planning permission (No. A/YL-PN/50), storage yard and vacant land;
- (c) to the east are two ponds and vacant structures; and
- (d) to the immediate west are residential dwellings (with the nearest one about 11.3m), an orchard, a pond, open storage yards of construction materials and workshop, and cultivated agricultural land.

8. Planning Intention

The “AGR” zone is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application are summarised as follows:

Land Administration

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

- (a) The Site falls entirely within Government Land (GL). No permission is given for occupation of GL (about 1,850m² subject

to verification) included in the Site. The act of occupation of GL without Government's prior approval is not allowed.

- (b) The Site abuts Nim Wan Road and is considered capable for separate alienation. Hence, LandsD would not normally consider application for regularization of unlawful occupation of unleased GL which is capable for reasonable separate alienation even though approval of the Board is given.
- (c) The Site falls within "Sheung Pak Nai Site of Archaeological Interest" (AM98-0921).
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) The GL within the Site is being illegally occupied. There are unauthorised structures erected on the Site without prior approval from his office. His office reserves the rights to take necessary actions against the unauthorised structure and the illegal occupation of GL.

Traffic

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

- (a) The Site can be accessed by Nim Wan Road which is a single track road. On the basis of applicant's submitted documents, he has no adverse comment on the application from traffic engineering point of view.
- (b) It is noted that the trip generation of the development estimated by the applicant is about 2-3 vehicle trips per day, in which only private cars are involved.
- (c) It is also noted that the development would operate from 9:00am to 5:00pm, and would be closed on Sundays and Public Holidays.
- (d) Sufficient manoeuvring spaces shall be provided within the Site. No vehicle is allowed to queue back to public roads or reverse onto/from public roads.

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

- (a) The access arrangement should be commented by Transport Department (TD).
- (b) If the proposed access arrangement is agreed by TD, a proper road connection or run-in/out should be constructed to the satisfaction of TD and HyD.
- (c) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.

- (d) HyD shall not be responsible for the maintenance of any access connecting the Site and Nim Wan Road.
- (e) The application may have interface with EPD's road upgrading at Nim Wan Road. Please seek comments of Environmental Infrastructural Division, EPD.

Environment

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

- (a) He does not support the application as the applicant fails to address the following environmental concerns:
 - (i) Considering the stream on the west of the Site and 2 ponds on the east, there is only a very limited area remaining within the Site to locate the septic tank in accordance with ProPECC PN 5/93. Although the applicant claims that the proposed septic tank and soakaway system is right on where the existing pool locates, the applicant does not provide information on where the existing pool is located. As such, the applicant fails to demonstrate the proposed septic tank and soakaway system is a feasible means to treat wastewater.
 - (ii) The applied use is located close to nearby noise sensitive receivers (NSRs). Noise arising from the applied use such as dog barking will be noise concern to the NSRs. The applicant is required to review and propose noise mitigation measures to avoid noise of annoyance.
- (b) Detailed departmental comments are at **Appendix V**.
- (c) No environmental complaint related to the Site was received in the past 3 years.

Natural Conservation and Agriculture

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

- (a) As shown on the approved Sheung Pak Nai and Ha Pak Nai OZP No. S/YL-PN/9, the Site falls within "AGR" zone. The planning intention of the "AGR" zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.
- (b) A visit was conducted to the Site. It was found that the Site is currently a cemented and enclosed area with several temporary structures. Agricultural lives are active in the vicinity. In addition, agricultural infrastructures such as vehicular access and

water supply are available. The Site possesses potential for agricultural rehabilitation which can be used for greenhouse cultivation or plant nursery. As such, the application is not supported from agricultural point of view.

- (c) From ecological point of view, it is noted that the applicant claimed that the proposed development will not involve land/pond filling and tree felling. It is noted that the Site is located near to some fish ponds. From fisheries point of view, the applicant should ensure that no interference or surface runoff to nearby fish ponds is to be made upon operation. Since there is no surface runoff to the pond and the pond level is higher than the Site, he has no comment on the application from fisheries viewpoint. Regarding the measures proposed to avoid pollution to the nearby watercourse, which flows to the adjacent “CPA” zone, he trusts that EPD will comment under their purview.
- (d) The subject address does not associate with any licence granted by his department, nor has he received any application regarding this address. 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.

Landscape

9.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) With reference to the site visit on 23.7.2018 and aerial photo of 2018, it is observed that the Site is mainly hard paved with existing trees generally along the site boundary. The applied use is already in operation. Fish ponds are observed to the north and north east of the Site, while there is a vegetated knoll to the south west of the Site. The Site is situated in an area of rural landscape character. Significant change to the landscape character arising from the application is not anticipated. Hence, he has no objection to the application from landscape planning perspective.
- (b) In view of the above, should the Board approve the application, he would advise the applicant to maintain landscape screen planting including trees and shrubs in good condition during the approval period.

Drainage

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

He has no objection in principle to the application from drainage point of view. Should the Board consider that the application is acceptable from planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to submit a

drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his department.

Fire Safety

9.1.8 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) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

He notes that the temporary animal boarding establishment is located on GL, he is not in position to comment the application.

Electricity

9.1.10 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) The applicant should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within or in the vicinity of the Site.
- (b) Based on the cable plans and the relevant drawings obtained, if there is underground cable and/or overhead line within or in the vicinity of the Site, the applicant shall carry out the following measures:
 - (i) for Site within the preferred working corridor of high voltage overhead lines at transmission voltage level 132kV or above as stipulated in the Hong Kong Planning Standards and Guidelines published by the Planning Department, prior consultation and arrangement with CLP Power is necessary;

- (ii) prior to establishing any structure within the Site, the applicant and/or his contractors shall liaise with the electricity supplier and, if necessary, ask CLP Power to divert the underground cable and/or overhead line away from the vicinity of the structures; and
- (iii) the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the regulation shall be observed by the applicant when carrying out works in the vicinity of the electricity supply lines.

Heritage

9.1.11 Comments of the Antiquities and Monuments Office (AMO):

In view of the location and scope of the temporary animal boarding establishment, AMO has no objection to the application from cultural heritage viewpoint. Nevertheless, the applicant is required to inform AMO immediately when antiquities or supposed antiquities, if any, are unearthed within the Site during the construction and operation of the temporary animal boarding establishment.

Others

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

- (a) No Food and Environmental Hygiene Department’s (FEHD) facilities will be affected and such work/operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding.
- (b) For any waste generated from such activity/operation, the applicant should arrange disposal properly at her own expenses.
- (c) Proper licence/permit issued by his department is required if there is any catering service/activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.

9.1.13 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) From tree preservation point of view, every possible effort should be made to preserve the existing trees on site and minimize the adverse impact to them during the works period.
- (b) If trees are inevitably affected, Tree Preservation and Removal Proposal should be made to LandsD for approval in accordance with DEVB TC(W) No. 7/2015.

District Officer’s Comments

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

His office has not received any comment from the locals on the application and he has no comment from departmental point of view.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (c) Chief Engineer/Land Works, Civil Engineering and Development Department (CE/LW, CEDD); and
- (d) Commissioner of Police (C of P).

10. Public Comments Received During the Statutory Publication Period

On 13.7.2018 and 18.1.2019, the application and the FI were published for public inspection. During the first three weeks of the statutory public inspection periods, 7 public comments were received (**Appendices III-1 to III-7**). 1 public comment supported the application. Six public comments from Kadoorie Farm and Botanic Garden (KFBG), Hong Kong Bird Watching Society (HKBWS) and an individual objected to the application, on the following grounds:

- (a) there are potential adverse ecological and sewerage impacts of the development. There is a watercourse adjacent to the Site and this watercourse drains into Deep Bay which is ecologically sensitive. The applicant fails to demonstrate the septic tank and soakaway system will be able to collect all surface runoff;
- (b) the proposed use is not in line with the planning intention of the “AGR” zone;
- (c) the application is located on GL and there is no record of approval for such use on GL; and
- (d) the Site is connected to fish ponds nearby, approval of this application will set an undesirable precedent to future similar applications within the “AGR” zone.

11. Planning Considerations and Assessments

11.1 The application is for a temporary animal boarding establishment for a period of 3 years at the Site mainly zoned “AGR” (about 99%) with a small portion straddling on an area shown as ‘Road’. The development is not in line with the planning intention of the “AGR” zone which is intended to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from agricultural point of view as agricultural activities in the vicinity of the Site are active and the Site possesses potential for greenhouse or plant nursery. DAFC also indicated that the Site does not have Boarding Establishment Licence granted by his department. There is no strong planning justification given in the current submission for a departure from the planning intention, even on a temporary basis.

11.2 The Site is currently occupied for the applied use which is located entirely within GL abutting Nim Wan Road. DLO/YL, LandsD considers that the Site is capable

for separate alienation and application for regularization of unlawful occupation of unleased GL, which is capable for reasonable separate alienation, would not be normally considered even though approval of the Board is given. The GL within the Site is being illegally occupied. There are unauthorised structures erected on the Site without prior approval from DLO/YL, LandsD. He reserves the rights to take necessary actions against the unauthorised structure and the illegal occupation of GL.

- 11.3 The applied use is not entirely incompatible with the surrounding land uses which are rural in character mainly comprising ponds, farmland and orchard intermixed with rural settlements. The nearest residential dwelling is about 11m to its west.
- 11.4 DEP does not support the application. The applicant fails to demonstrate that the applied use would not cause adverse noise and sewerage impacts to the surroundings. The applicant fails to demonstrate the proposed septic tank and soakaway system is a feasible means to treat wastewater. The applicant also fails to propose suitable noise mitigation measures to avoid noise of annoyance to nearby noise sensitive receivers.
- 11.5 Besides, the Committee has not approved any application for similar use at the Site or within the subject "AGR" zone. Approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the "AGR" zone. The cumulative effect of approving such similar applications would result in a general degradation of the rural environment and landscape quality of the area.
- 11.6 Seven public comments were received during statutory public inspection period. One supported the application while six objected to the application. Their grounds are summarized in paragraph 10 above. The planning considerations and assessments as stated in paragraphs 11.1 to 11.5 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 comments mentioned in paragraph 10, the Planning Department does not support the application for the following reasons:
 - (a) the proposed development is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification in the submission for a departure from such planning intention, even on a temporary basis;
 - (b) the applicant fails to demonstrate that the proposed development would not cause adverse environmental impact on the surrounding areas; and
 - (c) approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications for other developments within the "AGR" zone, the cumulative effect of which will result in a general degradation of the rural environment.

12.2 Alternatively, 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 8.3.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 5:00 pm and 9:00 am, except for the overnight animal boarding establishment, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, except for the overnight animal boarding establishment, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) the existing boundary fencing at the Site shall be maintained at all times during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the existing landscape planting on the Site shall be maintained at all times during the approval period;
- (f) 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 8.9.2019;
- (g) in relation to (f) above, the implementation of drainage facilities 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 8.12.2019;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of 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 8.9.2019;
- (j) in relation to (i) above, the implementation of the fire service installations proposal with **9 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 8.12.2019;
- (k) the submission of a revised environmental assessment within **6 months** from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by 8.9.2019;
- (l) in relation to (k) above, the implementation of environmental mitigation measures identified therein within **9 months** from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by 8.12.2019;

- (m) if the above planning conditions (a), (b), (c), (d), (e) or (h) 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;
- (n) if any of the above planning conditions (f), (g), (i), (j), (k) or (l) 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
- (o) upon 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 IV**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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. Attachments

Appendix I	Application Form with attachments received on 3.1.2019
Appendix Ia	FI received on 23.7.2018 clarifying the trip generation
Appendix Ib	FI received on 8.10.2018 clarifying number of animals staying in the establishment and responding to departmental comments
Appendix Ic	Further information received on 7.1.2019 responding to departmental comments and providing an Environmental Assessment
Appendix Id	Further information received on 27.2.2019 clarifying no breeding of animals at the Site and the location of the proposed septic tank and soakaway pit with a revised layout plan
Appendix II	Previous Application
Appendices III-1 to III-7	Public Comments
Appendix IV	Advisory Clauses
Appendix V	Detailed Departmental Comments
Drawing A-1	Layout Plan

Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2019**

Previous s.16 Application Covering the Site

Rejected Application

<u>No.</u>	<u>Application No.</u>	<u>Zoning</u>	<u>Development/Use</u>	<u>Date of Consideration</u>	<u>Reasons for Rejection</u>
1	A/YL-HT/414	Partly "AGR" and partly "GB"	Temporary Racing Circuit for a Period of 3 Years	29.7.2005	(1) to (3)

Reasons for Rejection:

- (1) the proposed development was not in line with the planning intention of the "GB" and "AGR" zones There was no strong justification in the submission for a departure from the planning intentions, even on a temporary basis;
- (2) there was insufficient information in the submission to demonstrate that the proposed development would not have adverse environmental, ecological, traffic, drainage, geotechnical, landscape and visual impacts on the application site and the adjacent Deep Bay, Sheung Pak Nai and Ha Pak Nai areas;
- (3) approval of the application would set an undesirable precedent for similar applications in the "GB" and "AGR" zones, the cumulative impact of which would result in general degradation of the environment in the area.

Advisory clauses

- (a) to note the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD)'s comments that the Site falls entirely within Government Land (GL). No permission is given for occupation of GL (about 1,850m² subject to verification) included in the Site. The act of occupation of GL without Government's prior approval is not allowed. The Site abuts Nim Wan Road and is considered capable for separate alienation. Hence, LandsD would not normally consider application for regularization of unlawful occupation of unleased GL which is capable for reasonable separate alienation even though approval of the Board is given. The Site falls within "Sheung Pak Nai Site of Archaeological Interest" (AM98-0921). The Site does not fall within Shek Kong Airfield Height Restriction Area. The GL within the Site is being illegally occupied. There are unauthorised structures erected on the Site without prior approval from his office. His office reserves the rights to take necessary actions against the unauthorised structure and the illegal occupation of GL.
- (b) to note the comments of the Commissioner for Transport that sufficient manoeuvring spaces shall be provided within the Site;
- (c) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that if the proposed access arrangement is agreed by Transport Department (TD), a proper road connection or run-in/out should be constructed to the satisfaction of TD and HyD. Adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to nearby public roads/drains. HyD shall not be responsible for the maintenance of any access connecting the Site and Nim Wan Road;
- (d) to note the comments of the Director of Environmental Protection that the applicant should note that the design of septic tank and soakaway systems should make reference to EPD's ProPECC PN 5/93 and certified by Authorized Persons. Environmental Protection Department (EPD) is carrying out a consultancy study titled "Agreement No. CE4/2015 (HY) West New Territories (WENT) Landfill – Study of Road Access (Upgrading of Nim Wan Road and Deep Bay Road) – Feasibility Study". The study comprises the exploration and recommendation of upgrading works of the existing Nim Wan Road and Deep Bay road from the WENT Landfill rear entrance at Ha Pak Nai to Lau Fau Shan roundabout. The road upgrading proposal is at feasibility study stage. The study is still ongoing and is expected to be completed by end 2019. There may be interfacing issues between the Site and the works limit of the road upgrading. Since the study is only at feasibility exploration stage, works limit of the road upgrading proposal will be subject to further review;
- (e) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, Plan D) that the applicant is advised that the approval of the landscape proposal under S.16 application does not imply approval of Tree Works such as pruning, transplanting and felling under lease. Tree Works applications should be submitted direct to DLO for approval. The applicant shall be reminded of the importance of general tree care as well as proper tree maintenance. Useful information on general tree maintenance is available for reference in 護養樹木的簡易圖解 (http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf) and the Handbook of Tree Management (Chinese Version: [https://www.greening.gov.hk/tc/tree_care/ Handbook_on_Tree_Management.html](https://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html)) published by the GLTM Section, DEVB;
- (f) to note the comments of Director of Director of Agriculture, Fisheries and Conservation

(DAFC) 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 the comments of the Director of Fire Services (D of FS) that the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans. The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans;
- (h) to note the comments from the Director of Electrical and Mechanical Services (DEMS) that the applicant should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within or in the vicinity of the Site. Based on the cable plans and the relevant drawings obtained, if there is underground cable and/or overhead line within or in the vicinity of the Site, the applicant shall carry out the following measures:
 - (i) for Site within the preferred working corridor of high voltage overhead lines at transmission voltage level 132kV or above as stipulated in the Hong Kong Planning Standards and Guidelines published by the Planning Department, prior consultation and arrangement with CLP Power is necessary;
 - (ii) prior to establishing any structure within the Site, the applicant and/or his contractors shall liaise with the electricity supplier and, if necessary, ask CLP Power to divert the underground cable and/or overhead line away from the vicinity of the structures;
 - (iii) the Electricity Supply Lines (Protection) Regulation and the “code of practice on working near electricity supply lines” established under the regulation shall be observed by the applicant when carrying out works in the vicinity of the electricity supply lines.
- (i) to note the comments of the Antiquities and Monuments Office (AMO) that the applicant is required to inform AMO immediately when antiquities or supposed antiquities, if any, are unearthed within the Site during the construction and operation of the temporary animal establishment;
- (j) to note the comments of the Director of Food and Environmental Hygiene (DFEH) that no Food and Environmental Hygiene Department’s (FEHD) facilities will be affected and such work/operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding. For any waste generated from such activity/operation, the applicant should arrange disposal properly at her own expenses. Proper licence/permit issued by his Department is required if there is any 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
- (k) to note the comments of the Director of Leisure and Cultural Services (DLCS) that from tree preservation point of view, every possible effort should be made to preserve the existing trees on site and minimize the adverse impact to them during the works period. If trees are inevitably affected, Tree Preservation and removal Proposal should be made to LandsD for

approval in accordance with DEVB TC(W) No. 7/2015.

Detailed Departmental Comments

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

- (i) According to the applicant, the proposed septic tank and soakaway system is right on where the existing pool is located. Furthermore, the proposed establishment is in close proximity to nearby noise sensitive receivers (NSRs). As the applicant fails to address the above environmental concerns, he could not support the application at this stage.
- (ii) The complaint records in the past 3 years should also be taken into account .

Water quality

- (iii) Considering the stream on the west of the Site and 2 pools/ponds on the east, there is only a very limited area remaining within the Site to locate the septic tank in accordance with ProPECC PN 5/93. The applicant mentioned in para. 1d that the new septic tank and soakaway system will be “right on where the existing pool is located”. However, it is unclear where the existing pool is located. The missing information is needed to evaluate whether septic tank and soakaway system is a feasible means to treat wastewater for the application.

Noise impact

- (iv) As advised in his previous comments, due to close proximity of the applied use to the nearby NSRs, noise arising from the proposed establishment such as dog barking will be noise concern to them.
- (v) It is noted that an environmental assessment was conducted in demonstrating the noise levels at the nearby NSRs being complied with the relevant noise standards. Irregularities are spotted in the assessment as follows:
 - i. The consultant should justify why ASR “B” is adopted for the Site and also verify whether the criteria “ANG-5” is applicable to the applied use in accordance with the HKPSG.
 - ii. The consultant should use proper measurement instrument for recording the existing noise levels during the site visit and provide information to support the validity of the measurement data.
 - iii. The consultant should elaborate why the sound power level of dog barking is assumed to be 90 dB(A).
- (vi) It is understood that dogs will be kept in structure B which is an outdoor kennel while dogs will be exercised and trained structure A “covered open walkway”. It is required to review and propose noise mitigation measures (for example absorptive materials for the walls, ceilings, doors and windows (if any) of the structure as well as screening the kennel and training fields from NSRs by structures and boundary wall (if any), etc.) to avoid noise of annoyance.
- (vii) The consultant is required to clarify whether the three dog kennels and any other structures where the dogs would be kept, have no windows.

- (viii) It is claimed that all ground floor training rooms are noise tight and people outside the units will heard nothing from inside. The consultant is required to specify at which structure the training rooms are located and justify why such rooms are claimed to be noise tight.
- (ix) It is unclear whether there will be 24-hour staff arranged for managing the dogs and handling complaints. The consultant is required to confirm the staff arrangement and also advise the maximum number of dogs which would be kept outside the business hours.

**Minutes of the 622th Meeting of the
Rural and New Town Planning Committee held on 8.3.2019**

105. The Committee noted that the applicant's representative requested on 18.2.2019 deferment of consideration of the application for two months so as to allow time for preparation of further information to address departmental comments. It was the first time that the applicant requested deferment of the application.

106. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further information from the applicant. The Committee agreed that the application should be submitted for its consideration within two months from the date of receipt of further information from the applicant. If the further information submitted by the applicant was not substantial and could be processed within a shorter time, the application could be submitted to an earlier meeting for the Committee's consideration. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

Agenda Item 30

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-PN/55 Temporary Animal Boarding Establishment for a Period of 3 Years in
"Agriculture" Zone and an area shown as 'Road', Government Land in
D.D. 135, Sheung Pak Nai, Yuen Long
(RNTPC Paper No. A/YL-PN/55B)

Presentation and Question Sessions

107. Ms Bonnie K.C. Lee, STP/TMYLW, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) temporary animal boarding establishment for a period of three years;

- (c) departmental comments – departmental comments were set out in paragraph 9 of the Paper. Both the Director of Agriculture, Fisheries and Conservation (DAFC) and the Director of Environmental Protection (DEP) did not support the application. The District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) advised that the government land (GL) within the Site was illegally occupied and reserved the rights to take necessary actions against the unauthorized structure and the illegal occupation of GL. Other concerned government departments had no objection to or no adverse comments on the application;
- (d) during the first three weeks of the statutory publication periods, one public comment from an individual supporting the application and six public comments from Kadoorie Farm and Botanic Garden, Hong Kong Bird Watching Society and an individual objecting to the application were received. Major views were set out in paragraph 10 of the Paper; and
- (e) the Planning Department (PlanD)’s views – PlanD did not support the application based on the assessments set out in paragraph 11 of the Paper. The development was not in line with the planning intention of the “Agriculture” (“AGR”) zone. DAFC did not support the application as agricultural activities in the vicinity of the Site were active and the Site possessed potential for greenhouse or plant nursery. DAFC also indicated that the Site did not have a Boarding Establishment Licence granted by his department. There was no strong planning justification given in the current submission for a departure from the planning intention, even on a temporary basis. The Site was currently occupied for the applied use which was located entirely within GL. DLO/YL, LandsD advised that the GL within the Site was illegally occupied with unauthorized structure. DEP did not support the application as the applicant failed to propose suitable noise mitigation measures to avoid noise of annoyance and also failed to demonstrate the proposed septic tank and soakaway system as a feasible means to treat wastewater. Approval of the application even on a temporary basis, would set an undesirable precedent for similar

applications within the “AGR” zone. Regarding the adverse public comments, comments of concerned departments and the planning assessments above were relevant.

108. Members had no question on the application.

Deliberation Session

109. After deliberation, the Committee decided to reject the application. The reasons were :

- “(a) the proposed development is not in line with the planning intention of the “Agriculture” (“AGR”) zone which is primarily to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification in the submission for a departure from such planning intention, even on a temporary basis;
- (b) the applicant fails to demonstrate that the proposed development would not cause adverse environmental impact on the surrounding areas; and
- (c) approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications for other developments within the “AGR” zone, the cumulative effect of which will result in a general degradation of the rural environment.”

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

TOWN PLANNING BOARD

15/F., North Point Government Offices
333 Java Road, North Point,
Hong Kong.

傳 真 Fax: 2877 0245 / 2522 8426

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.: TPB/A/YL-PN/55

By Registered Post & Fax (2877 0245)

22 March 2019

Harvest Surveyors Ltd.
Unit 611, 6/F, Kowloon Plaza
485 Castle Peak Road
Lai Chi Kok, Kowloon
(Attn: Szeto Tak Lok)

Dear Sir/Madam,

**Temporary Animal Boarding Establishment for a Period of 3 Years
in "Agriculture" Zone and an area shown as 'Road',
Government Land in D.D. 135, Sheung Pak Nai, Yuen Long**

I refer to my letter to you dated 6.3.2019.

After giving consideration to the application, the Town Planning Board (TPB) decided to reject the application and the reasons are :

- (a) the proposed development is not in line with the planning intention of the "Agriculture" ("AGR") zone which is primarily to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification in the submission for a departure from such planning intention, even on a temporary basis;
- (b) you fail to demonstrate that the proposed development would not cause adverse environmental impact on the surrounding areas; and
- (c) approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications for other developments within the "AGR" zone, the cumulative effect of which will result in a general degradation of the rural environment.

A copy of the TPB Paper in respect of the application (except the supplementary planning statement/technical report(s), if any) and the relevant extract of minutes of the TPB meeting held on 8.3.2019 are enclosed herewith for your reference.

Under section 17(1) of the Town Planning Ordinance, an applicant aggrieved by a decision of the TPB may apply to the TPB for a review of the decision. If you wish to seek a review, you should inform me within 21 days from the date of this letter (on or before 12.4.2019). I will then contact you to arrange a hearing before the TPB which you and/or your

authorized representative will be invited to attend. The TPB is required to consider a review application within three months of receipt of the application for review. Please note that any review application will be published for three weeks for public comments.

Under the Town Planning Ordinance, the TPB can only reconsider at the review hearing the original application in the light of further written and/or oral representations. Should you decide at this stage to materially modify the original proposal, such proposal should be submitted to the TPB in the form of a fresh application under section 16 of the Town Planning Ordinance.

If you wish to seek further clarifications/information on matters relating to the above decision, please feel free to contact Ms. Bonnie Lee of Tuen Mun & Yuen Long West District Planning Office at 2158 6288.

Yours faithfully,



(Raymond KAN)
for Secretary, Town Planning Board

Annex H of
TPB Paper No. 10567

Advisory clauses

- (a) to note the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD)'s comments that the Site falls entirely within Government Land (GL). No permission is given for occupation of GL (about 1,850m² subject to verification) included in the Site. The act of occupation of GL without Government's prior approval is not allowed. The Site abuts Nim Wan Road and is considered capable for separate alienation. Hence, LandsD would not normally consider application for regularization of unlawful occupation of unleased GL which is capable for reasonable separate alienation even though approval of the Board is given. The Site falls within "Sheung Pak Nai Site of Archaeological Interest" (AM98-0921). The Site does not fall within Shek Kong Airfield Height Restriction Area. The GL within the Site is being illegally occupied. There are unauthorised structures erected on the Site without prior approval from his office. His office reserves the rights to take necessary actions against the unauthorised structure and the illegal occupation of GL.
- (b) to note the comments of the Commissioner for Transport that sufficient manoeuvring spaces shall be provided within the Site;
- (c) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that if the proposed access arrangement is agreed by Transport Department (TD), a proper road connection or run-in/out should be constructed to the satisfaction of TD and HyD. Adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to nearby public roads/drains. HyD shall not be responsible for the maintenance of any access connecting the Site and Nim Wan Road;
- (d) to note the comments of the Director of Environmental Protection that the applicant should note that the design of septic tank and soakaway systems should make reference to EPD's ProPECC PN 5/93 and certified by Authorized Persons. Environmental Protection Department (EPD) is carrying out a consultancy study titled "Agreement No. CE4/2015 (HY) West New Territories (WENT) Landfill – Study of Road Access (Upgrading of Nim Wan Road and Deep Bay Road) – Feasibility Study". The study comprises the exploration and recommendation of upgrading works of the existing Nim Wan Road and Deep Bay road from the WENT Landfill rear entrance at Ha Pak Nai to Lau Fau Shan roundabout. The road upgrading proposal is at feasibility study stage. The study is still ongoing and is expected to be completed by end 2019. There may be interfacing issues between the Site and the works limit of the road upgrading. Since the study is only at feasibility exploration stage, works limit of the road upgrading proposal will be subject to further review;
- (e) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, Plan D) that the applicant is advised that the approval of the landscape proposal under S.16 application does not imply approval of Tree Works such as pruning, transplanting and felling under lease. Tree Works applications should be submitted direct to DLO for approval. The applicant shall be reminded of the importance of general tree care as well as proper tree maintenance. Useful information on general tree maintenance is available for reference in 護養樹木的簡易圖解 (http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf) and the Handbook of Tree Management (Chinese Version: [https://www.greening.gov.hk/tc/tree_care/ Handbook_on_Tree_Management.html](https://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html)) published by the GLTM Section, DEVB;
- (f) to note the comments of Director of ~~Director of~~ Agriculture, Fisheries and Conservation

(DAFC) 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 AFCD. If the proposed animal boarding establishment falls under the condition mentioned above, the applicant shall obtain a Boarding Establishment Licence from AFCD. Regarding the breeding activity, if a person keeps female dogs for breeding purpose and selling those dogs or their offsprings from a licensed premises, a Dog Breeding Licence (DBL) should also be obtained from AFCD;

- (g) to note the comments of the Director of Fire Services (D of FS) that the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans. The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans;
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 - (iii) the Electricity Supply Lines (Protection) Regulation and the “code of practice on working near electricity supply lines” established under the regulation shall be observed by the applicant when carrying out works in the vicinity of the electricity supply lines.
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- (k) to note the comments of the Director of Leisure and Cultural Services (DLCS) that from tree preservation point of view, every possible effort should be made to preserve the existing trees on site and minimize the adverse impact to them during the works period. If trees are inevitably affected, Tree Preservation and removal Proposal should be made to LandsD for approval in accordance with DEVB TC(W) No. 7/2015.