

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

**APPLICATION NO. A/YL-KTN/811**

<b><u>Applicant</u></b>	: Pom Pet Care represented by Mr. Tang Lok San
<b><u>Site</u></b>	: Lot 1396 (Part) in D.D. 107, Kam Tin North, Yuen Long, New Territories
<b><u>Site Area</u></b>	: About 854.6m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: Temporary Animal Boarding Establishment for a Period of 3 Years and Filling of Land

**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 3 years and filling of land. According to the Notes of the OZP, ‘Animal Boarding Establishment’ is a Column 2 use in the “AGR” zone, which requires planning permission from the Town Planning Board (the Board). Filling of land in “AGR” zone also requires planning permission from the Board. The Site is paved, fenced off and currently used for the applied use without planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the development involves ten one-storey structures (not more than 3.5m in height) with a total floor area of about 414.54m<sup>2</sup> for animal boarding establishment, ancillary office, ancillary storeroom and canopy uses. The whole site has been filled with concrete by not more than 0.3m in depth (from 11.1mPD to 11.4mPD) for site formation, vehicular manoeuvring and circulation of visitors. One private car parking space and one loading / unloading space for light goods vehicle are provided. The operation hours are from 8:00 a.m. to 6:00 p.m. daily, including public holidays. Not more than 20 dogs will be accommodated at the Site. No public announcement system and whistle blowing will be used at the Site. All dogs will be kept inside the enclosed structures equipped with soundproofing materials and mechanical ventilation and air conditioning after the operation hours to avoid causing noise nuisance to the

nearby sensitive receivers. No more than 5 dogs will be allowed for outdoor activities at the same time during the operation hours and dog masks will be used during outdoor activity. The Site is accessible from Shui Mei Road. The site layout plan and paved area plan submitted by the applicant are at **Drawings A-1 and A-2**.

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

- (a) Application form with supplementary information and plans received on 8.12.2021 **(Appendix I)**
- (b) Further Information (FI) received on 21.1.2022 and 24.1.2022 in response to departmental comments **(Appendix Ia)**  
*[exempted from publication requirement]*

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

The justifications put forth by the applicant in support of the application are detailed in the application form, supplementary information, plans and FI at **Appendices I and Ia**. They can be summarized as follows:

- (a) The development is temporary in nature and would not jeopardize the long-term planning intention of the “AGR” zone. The applied use is compatible with the surrounding environment. Similar applications for temporary animal boarding have been approved by the Board before.
- (b) The filling of land is for site formation of structure, providing vehicular manoeuvring space and circulation space for the visitors. The land filling area has been kept to the minimum and will be reinstated afterwards.
- (c) The proposed development will not generate adverse traffic, environmental, landscape and drainage impacts to the surrounding areas.

## **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 section 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 is currently not subject to any planning enforcement action.

## 5. **Previous Application**

The Site is not subject to any previous application.

## 6. **Similar Applications**

- 6.1 There are 26 similar applications for temporary animal boarding establishment with / without filling of land, involving 22 sites, within the same “AGR” zone in the vicinity of the Site. Except Application No. A/YL-KTN/759, all applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) between April 2017 and August 2021. Details of these applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

### *25 Approved Applications*

- 6.2 25 applications involving 21 sites were approved with conditions by the Committee between August 2017 and September 2021 for similar reasons that temporary approvals would not frustrate the long-term planning intention; the developments were not incompatible with the surrounding land uses; relevant government departments generally had no adverse comments on the applications; and/or previous approvals were granted and the applicants had made effort to comply with the approval conditions. However, planning permissions for 7 applications were revoked due to non-compliance with approval conditions.

### *One Rejected Application*

- 6.3 Application No. A/YL-KTN/759 was rejected by the Committee in May 2021 for the reason that the site was fragmented in that the boundary had enclosed existing structures which were used for the applied use without planning permission but outside the application site and approving the application would result in piecemeal development and was undesirable from land-use planning and planning control point of view. Nevertheless, the same site for the same use was later approved by the Committee in September 2021 when all the existing structures previously left out in the fragmented application were included in one application site under application No. A/YL-KTN/781.
- 6.4 Apart from the above, application No. A/YL-KTN/807 for proposed temporary animal boarding establishment for 5 years and filling of land within the same “AGR” zone in the vicinity of the Site will be considered at the same meeting.

## 7. **The Site and Its Surrounding Areas** (Plans A-2 to A-4)

- 7.1 The Site is:

- (a) paved, fenced off and currently used for the applied use without planning permission; and
- (b) accessible to Shui Mei Road.

- 7.2 The surrounding areas are rural in character intermixed with residential structures/ dwellings, open storage/ storage yards, dog kennels, a pond, an outward bound training centre and vacant / vegetated land:
- (a) to its north are residential structures/ dwellings (the nearest about 30m to the north), an outward bound training centre by private operator, storage yards and grassland;
  - (b) to its west are an open storage yard, grass land, vacant land, a section of water course and a dried pond;
  - (c) to its east are dog kennels, a storage yard, vacant land and wood land;
  - (d) to its immediate south are grass land and vacant land. To its further south are wood land in the “Conservation Area” zone.

## **8. Planning Intention**

- 8.1 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.
- 8.2 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

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

- 9.1 The following government departments have been consulted and their views on the application 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) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site, if any. Besides, given the applied use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. 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 rent or fee, as may be imposed by the LandsD.

### **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) The applicant is reminded that sufficient manoeuvring space shall be provided within the Site. In addition, no vehicle should be allowed to queue back to or reverse onto / from public roads.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by the Transport Department. 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.

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

- (a) Shui Mei Road is not maintained by HyD.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Castle Peak Road – Tam Mi.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

### **Environment**

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

- (a) There was no substantiated environmental complaint concerning the Site received by DEP in the past three years.
- (b) According to the applicant, the animal boarding service will be opened 24 hours daily, including Sunday and public holiday. Not more than 20 dogs will be kept at the Site. From 8:00a.m.to 6:00p.m., no more than 5 dogs will be allowed for outdoor activities at the same time and dog masks will be used during outdoor activity. One private car parking space and one loading / unloading space for light goods vehicle will be provided at the Site. All dogs are kept inside enclosed animal boarding establishment fitted with soundproofing materials and equipped with mechanical ventilation and air conditioning system from

6:00p.m. to 8:00a.m. No public announcement system and whistle blowing is allowed at the Site. A 1.8m high solid (metal) fence is erected along the site boundary.

- (c) Provided that the facilities will be properly designed and maintained to minimize any potential environmental nuisance, he has no objection to the application subject to the following approval conditions:
  - (i) all dogs shall be kept inside the animal boarding establishment structures between 6:00 p.m. to 8:00 a.m., as proposed by the applicant, during the planning approval period;
  - (ii) all dogs shall be kept inside the enclosed animal boarding establishment structures between 8:00 a.m. to 6:00 p.m., except up to 5 dogs with dog masks are allowed for outdoor activities at the same time, as proposed by the applicant, during the planning approval period; and
  - (iii) no public announcement system, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site as proposed by the applicant.
- (d) The applicant is also advised: (i) that the structures for animal boarding establishment should be enclosed with soundproofing materials with provision of 24-hour mechanical ventilation and air-conditioning system; (ii) to follow the requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site"; (iii) to provide adequate supporting infrastructure / facilities for proper collection, treatment and disposal of waste / wastewater generated from the applied use. If septic tank and soakaway system will be used in case of unavailability of public sewer, its design and construction shall follow the requirements of EPD's Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" including completion of percolation test and certification by Authorized Person; (iv) that it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances.

### **Landscape**

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

- (a) She has no objection to the application from landscape planning perspective.
- (b) Based on the aerial photo of 2021, the Site is located in an area of rural landscape character comprising of farmlands, vacant lands,

village houses, temporary structures, scattered tree group, and woodland within the “Conservation Area” zone to the south of the Site. According to the site photos taken in December 2021, the Site is fenced-off, hard paved with temporary structures and animal boarding is in operation. No existing tree is observed within the Site. Significant adverse impact within the Site arising from the development is not anticipated.

- (c) Considering that previous applications for animal boarding establishment within the same “AGR” zone were approved, the development under application is considered not entirely incompatible with its surrounding environment.

### **Agriculture and Nature Conservation**

#### **9.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):**

- (a) The Site falls within the “AGR” zone and is currently occupied with temporary structures. Agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural perspective.
- (b) Nevertheless, he has no comment from the nature conservation and animal boarding establishment licence aspects. The Site does not associate with any licences granted by his department, nor has he received any application regarding the Site. Under the Public Health (Animals) (Boarding Establishment) Regulations, Cap. 139I, 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. Besides, the dogs kept by the applicant should be properly licensed in accordance with Cap. 421 Rabies Ordinance and the applicant is reminded to observe Cap. 169 Prevention of Cruelty to Animal Ordinance at all times. He will provide detailed information and guidance on Animal Boarding Establishment when the applicant submits the licence application.

### **Drainage**

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

- (a) He has no objection in-principle to the development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission of a drainage proposal and the

implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.

### **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. 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.
- (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.

### **Building Matters**

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

- (a) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the Buildings Authority should be obtained, otherwise they are unauthorized building works (UBW) under the BO. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) His detailed comments on UBW, provision of access, temporary or licensed structures are at **Appendix IV**.
- (c) Detailed checking under the BO will be carried out at building plan submission stage.

### **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 has no particular comment on the application.



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

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

## **10. Public Comments Received During Statutory Publication Period**

On 17.12.2021, the application was published for public inspection. During the three-week statutory publication period, one public comment from an individual was received (**Appendix III**). The commenter objects to the application mainly on the grounds that the Site involves filling of land in concrete for the entire site.

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

- 11.1 The application is for temporary animal boarding establishment for a period of 3 years in the “AGR” zone and filling of land for the whole site by 0.3m in depth. The planning intention of the “AGR” zone is primarily 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. The applied use is not entirely in line with the planning intention of the “AGR” zone, and DAFC does not support the application from the agriculture point of view as the Site possesses potential for agricultural rehabilitation. Nevertheless, in view of the nature of the applied use, it is considered that approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “AGR” zone. Filling of land within “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, CE/MN of DSD and DEP have no adverse comment from the drainage and environmental perspectives.
- 11.2 The development is considered not incompatible with the surrounding areas, which are rural in character intermixed with residential structures/ dwellings, open storage/ storage yards, dog kennels, vacant land and vegetated land. Although there are residential dwellings/ structures in the vicinity of the Site (the nearest about 30m to its north) (**Plan A-2**), the applicant states that all dogs will be kept inside the enclosed structures after the operation hours, which are equipped with soundproofing materials, mechanical ventilation and air conditioning. No more than 5 dogs with dog masks will be allowed for outdoor activities at the same time. No public announcement system and whistle blowing will be used at the Site. DEP has no adverse comment on the application.
- 11.3 Other relevant departments consulted, including C for T, CTP/UD&L of PlanD and D of FS, have no adverse comment on the application. To minimise any possible environmental nuisance and to address the technical requirements of concerned government departments, relevant approval conditions are

recommended in paragraph 12.2 below. The applicant will also be advised to adopt the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites'.

- 11.4 The Site is not the subject of any previous application. There are 25 similar applications on 21 sites for temporary animal boarding establishment within the same "AGR" zone in the vicinity of the Site approved by the Committee between 2017 and 2021 as stated in paragraph 6.2 above. The circumstances of the only rejected similar application (No. A/YL-KTN/759) are different from the current application as stated in paragraph 6.3 above. The approval of the current application is in line with the Committee's previous decisions.
- 11.5 One public comment was received during the statutory publication period as detailed in paragraph 10 above. The commenter objects to the application as it involves filling of land but provides no justification. In this regard, it should be noted that the applicant has explained in the submission on the need for land filling to meet its operational need, and the applicant would be required to reinstate the Site to an amenity area upon expiry of the temporary planning permission should the application be approved. The departmental comments and planning considerations and assessments as stated above are also relevant.

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

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department has no objection to the temporary animal boarding establishment for a period of 3 years and filling of land.
- 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 28.1.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) no operation between 6:00 p.m. and 8:00 a.m. (except overnight animal boarding), as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) all dogs shall be kept inside the enclosed animal boarding establishment structures between 8:00 a.m. to 6:00 p.m. (except up to 5 dogs with dog masks) are allowed for outdoor activities at the same time, as proposed by the applicant, during the planning approval period;
- (c) no public announcement system, portable loud speaker, any form of audio amplification system or whistle blowing is allowed to be used on the Site at any time during the planning approval period;
- (d) the submission of a 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 28.7.2022;

- (e) in relation to (d) above, the implementation of the 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 28.10.2022;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 28.7.2022;
- (h) in relation to (g) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 28.10.2022;
- (i) if any of the above planning condition (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;
- (j) if any of the above planning condition (d), (e), (g), or (h) 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
- (k) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

#### Advisory Clauses

The recommended advisory clauses are 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 development is not in line with the planning intention of the "AGR" zone which 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. 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**

<b>Appendix I</b>	Application Form with Supplementary Information and Plans received on 8.12.2021
<b>Appendix Ia</b>	FI received on 21.1.2022 and 24.1.2022
<b>Appendix II</b>	Similar Applications within the Same “AGR” Zone in the vicinity of the Site on the Kam Tin North OZP
<b>Appendix III</b>	Public Comment received during the Statutory Publication Period
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Site Layout Plan
<b>Drawing A-2</b>	Paved Area Plan
<b>Plan A-1</b>	Location Plan with Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
JANUARY 2022**