

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/822

<u>Applicant</u>	:	Daniel The Dog International Company Limited represented by Goldrich Planners and Surveyors Limited
<u>Site</u>	:	Lots 1499 (Part) and 1504 RP in D.D. 107, Kam Tin, Yuen Long
<u>Site Area</u>	:	About 2,989 m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Temporary Animal Boarding Establishment (Dog Training Ground) with Ancillary Facilities 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 (dog training ground) with ancillary facilities for a period of 3 years and filling of land. The Site is zoned “AGR” on the Kam Tin North OZP and ‘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 within “AGR” zone also requires planning permission from the Board. The Site is partly fenced, paved and used for the applied use without planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the development involves four single-storey structures (not exceeding 3.5m high) with total floor area of about 576m² for dog training activity room, rain shelters, ancillary office and teaching room uses. Part of the Site (about 1,278m² or 43%) is filled with concrete for about 0.2m in depth (from +3.3 mPD to +3.5 mPD and from +3.2 mPD to +3.4 mPD) for site formation of structures and circulation. Not more than 20 dogs will be kept within the Site between 9:00 a.m. and 7:00 p.m. daily, including Sundays and public holidays. The applicant states that about 15 dogs will be allowed outdoor at the same time during the operation hours and no dogs will be kept at the Site after the operation hours. The enclosed structure for animal

boarding establishment are equipped with sound proofing materials, air conditioning and mechanical ventilation. No public announcement system and whistle blowing will be used at the Site. Three parking spaces for private car and one parking space for light goods vehicle will be provided within the Site. The Site is accessible from Shui Mei Road via a local access (**Plan A-2**). The site layout and paved area plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application form with supplementary information (**Appendix I**) received on 24.1.2022 and 29.1.2022
- (b) Further information (FI) received on 1.8.2022 (**Appendix Ia**)
- (c) FI received on 15.9.2022 and 20.9.2022 (**Appendix Ib**)

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 and FIs in **Appendices I to Ib**. They can be summarized as follows:

- (a) The applied use is temporary in nature and will not jeopardise the long-term planning intention of the “AGR” zone. The development intends to cater for the demand for animal boarding services in the Kam Tin area.
- (b) The development is compatible with the surrounding environment and similar applications are found within the same “AGR” zone in the vicinity.
- (c) The filling of land of about 0.2m in depth is for site formation of structures and circulation space. The paved area has been minimized to support the daily operation of the development. The applicant undertakes to remove the paving when the development is discontinued.
- (d) The development will not induce significant adverse traffic and drainage impacts on the surrounding area.

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 Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not the subject of any active planning enforcement action.

5. Previous Application

The Site is not involved in any previous application.

6. Similar Applications

- 6.1 There are 28 similar applications, involving 25 sites, for temporary animal boarding establishment (14 of which with filling of land) within the same “AGR” zone in the vicinity of the Site in the past 5 years. All the applications, except for application No. A/YL-KTN/759, were approved with conditions by the Rural and New Town Planning Committee (the Committee) between August 2017 and September 2022 mainly on the grounds that temporary approval would not frustrate the long-term planning intention; the developments were not incompatible with the surrounding land uses; relevant government departments consulted in general had no objection to the applications; and their technical concerns could be addressed by approval conditions. Nevertheless, the planning permissions for ten of them (Applications No. A/YL-KTN/562, 588, 616, 617, 639, 642, 645, 713, 716 and 730) were revoked owing to non-compliance with the approval conditions.
- 6.2 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 points of view. Nevertheless, the 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.
- 6.3 Details of these applications are summarized in **Appendix II** and the locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) partly fenced, paved and used for the applied use without planning permission; and
- (b) accessible from Shui Mei Road via a local access.

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north is a site with construction works in progress. To its further north, northwest and northeast are a plant nursery, residential dwelling/structure, a vacant chicken shed, a hobby farm and grassland;
- (b) to its east and southeast are a site for dog training ground (with valid planning permission), grassland and parking of vehicle within an area zoned “Village Type Development”;
- (c) to its south, across Shui Mei Road and a nullah, are ponds and a hobby farm; and
- (d) to its west are fallow/active agricultural land and vacant land.

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, planning permission from the Board is required for such activities.

9. Comments from Relevant Government Departments

All departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III** and **IV** respectively.

10. Public Comment Received During Statutory Publication Period

The application was published for public inspection. During the statutory public inspection period, a public comment was received from an individual. The commenter objects to the application mainly on the grounds that the development will cause adverse environmental / ecological impacts to the nearby area; the Site should be retained for cultivation purpose; and the approval conditions of many planning applications are not complied with.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary animal boarding establishment (dog training ground) with ancillary facilities for a period of 3 years at the Site

zoned “AGR” (**Plan A-1**) and filling of land at part of the Site (about 1,278m² or 43%) by about 0.2m in depth for site formation of structure and circulation space. The planning intention of the “AGR” zone is 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. Whilst the development is not in line with the planning intention of the “AGR” zone, DAFC has no comment on the application from the agriculture development perspective. It is considered that approval of the application on a temporary basis for 3 years would not frustrate 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. An approval condition requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.

- 11.2 The applied use is considered not incompatible with the surrounding areas which are rural in character intermixed by animal boarding establishment (with valid planning permission), residential dwelling / structure, fallow/active agricultural land, plant nursery, grassland and vacant land. The CTP/UD&L of PlanD has no objection to the application from the landscape planning perspective and considers that significant adverse landscape impact arising from the applied use is not anticipated. Although there are residential dwellings/ structures in the vicinity (the nearest about 40m to its northeast) (**Plan A-2**), the applicant states that no more than 15 dogs will be allowed for outdoor activities at the same time while other dogs will be kept inside the enclosed structure equipped with soundproofing materials, air conditioning and mechanical ventilation. No dogs will be kept at the Site after the operation hours and no public announcement system will be used at the Site. Besides, there was no environmental complaint concerning the Site in the past 3 years. DEP has no adverse comment on the application.
- 11.3 Other relevant departments consulted including C for T, CE/MN of DSD and D of FS have no adverse comment on the application. To minimize the possible environmental nuisances generated by the proposed development and address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised to follow the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by EPD, and the relevant Practice Note for Professional Person PN 5/93 on “Drainage Plans subject to Comment by the Environmental Protection Department” including percolation test if septic tank and soakaway system will be used at the Site.
- 11.4 There are 27 similar applications approved for temporary animal boarding establishment (13 of which involve filling of land) within the same “AGR” zone in the vicinity of the Site in the past five years. The circumstances of the only rejected application (No. A/YL-KTN/759) are different as stated in

paragraph 6.2 above. Approval of the current application is in line with the Committee's previous decisions on similar applications.

- 11.5 Regarding the public comment on the application as detailed in paragraph 10 above, government departments' comments and planning assessments 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 comment mentioned in paragraph 10, the Planning Department has no objection to the application.
- 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 23.9.2025. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) all dogs shall be kept inside the enclosed animal boarding establishment structure, except that no more than 15 dogs are allowed for outdoor activities from 9:00 a.m. to 7:00 p.m., as proposed by the applicant, during the planning approval period;
- (c) no public announcement system, whistle blowing, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site, as proposed by the applicant, during the planning approval period;
- (d) the implementation of the accepted 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 23.3.2023;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 23.3.2023;
- (g) in relation to (f) 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 23.6.2023;

- (h) if any of the above planning condition (a), (b), (c) or (e) 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;
- (i) if any of the above planning condition (d), (f) or (g) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (j) 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 attached in **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 to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. This zone is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form with supplementary information received
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on 24.1.2022 and 29.1.2022

Appendix Ia	FI received on 1.8.2022
Appendix Ib	FI received on 15.9.2022 and 20.9.2022
Appendix II	Similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comment
Drawing A-1	Site layout and paved area plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
SEPTEMBER 2022**