

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/894

- Applicant** : Daniel the Dog International Company Limited represented by Goldrich Planners and Surveyors Ltd.
- Site** : Lots 1464 (Part), 1486 (Part) and 1494 (Part) in D.D. 107 and adjoining Government Land, Kam Tin, Yuen Long, New Territories
- Site Area** : About 3,898 m² (including Government land of about 824m² (about 21%))
- Land Status** : (i) Block Government Lease (demised for agricultural use)
(about 79% of the Site)
(ii) Government Land (about 21% of the Site)
- Plan** : Draft Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/10
- Zoning** : “Agriculture” (“AGR”)
- Application** : Temporary Place of Recreation, Sports or Culture (Indoor and Outdoor Recreation Centre) 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 place of recreation sports of culture (indoor and outdoor recreation centre) with ancillary facilities for a period of 3 years and filling of land. The Site is zoned “AGR” on the Kam Tin North OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board). The Site is formed and partly paved and partly covered by lawn, and used for the applied use with no valid planning permission (**Plans A-2 to A-4b**).
- 1.2 According to the applicant, the application intends to provide a recreational area for the neighbourhood. The development involves 4 one to two-storey structures (not more than 7m high) with total floor area of about 911m² for multi-function room and open shed uses, whilst the remaining area is

grassland (about 3,074m² or 79%) for recreational activities and social gathering.

- 1.3 The applicant states that part of the Site (about 824m²/ 21%) has been filled with concrete for not more than 0.1m in depth (from +4.1 mPD to +4.2 mPD) for site formation for erection of structures. The operation hours are from 9:00 a.m. to 11:00 p.m. daily, including Sunday and public holidays. The applicant estimates that not more than 60 visitors can be accommodated at the Site per day while the number of staff working at the Site is about 10. No public announcement system and whistle blowing are used at the Site. While pet owners are allowed to bring their pets to the Site for recreational activities, no animal boarding nor pet training activities will be provided at the Site. No parking space is provided within the Site. The Site is accessible via a local track from Shui Mei Road (**Plan A-2**). The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1** and **A-2**.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form and supplementary information (**Appendix I**) received on 14.2.2023 and 22.2.2023
 - (b) Further information (FI) received on 20.3.2023 (**Appendix Ia**)

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 FI in **Appendices I** and **Ia**. 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 applied use is compatible with the surrounding environment.
- (b) The development can help meet the huge demand for recreational activities in the vicinity. Apart from outdoor recreational activities, the visitors can use the multi-function rooms for meeting and indoor activities, such as playing board games and video gaming consoles.
- (c) The extent of land filling land is for site formation of structures for meeting the operational need of the temporary indoor and outdoor recreation centre.
- (d) The development would not induce adverse traffic, environmental and drainage impacts to the surrounding areas.
- (e) Septic tank and soakaway system will be constructed and discharged properly with reference to the good practices under the relevant Professional Persons Environmental Consultative Committee Practice Notes (i.e. ProPECC PN 5/93).

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. For the government land portion within the Site, TPB PG-No. 31A is not applicable.

4. Background

The Site is currently not subject to any planning enforcement action.

5. Previous Application

The Site is not involved in any previous application.

6. Similar Application

There is no similar application for temporary indoor and outdoor recreation centre use within the same “AGR” zone in the vicinity of the Site.

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

7.1 The Site is:

- (a) formed and partly paved and partly covered by lawn, and used for the applied use with no valid planning permission; and
- (b) accessible via a local track from Shui Mei Road.

7.2 The surrounding areas have the following characteristics:

- (a) to its north and northeast are hobby farms (one of which is covered by planning permission under Application No. A/YL-KTN/782), vacant land, storage of vehicles, a pond and fallow agricultural land;
- (b) to its east are residential structures/ dwellings and vacant land;
- (c) to its west and northwest are a vacant chicken shed, residential structures/ dwellings (the nearest is about 10m away), a storage yard, pond and vacant land; and
- (d) to its immediate south are three animal boarding establishments (all covered by planning permissions under Applications No. A/YL-KTN/724, 743 and 822) and vacant land. To its further south are parking of vehicles.

8. Planning Intention

- 8.1 The planning intention of the “AGR” zone is 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 Apart from the government department as set out in paragraph 9.2 below, other 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 II** and **III** respectively.
- 9.2 The following government department has objection to / reservation on the application:

Agriculture and Nature Conservation

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

- (a) the Site falls within the “AGR” zone and is currently occupied by some temporary structures. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are 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 falling within the “AGR” zone is not supported from agricultural perspective; and
- (b) from nature conservation point of view, DAFC has no adverse comment on the application.

10. Public Comments Received During Statutory Publication Period (Appendix IV)

The application was published for public inspection. During the statutory publication period, three public comments from the Conservancy Association, Designing Hong Kong Limited and an individual were received objecting to the application mainly on the grounds that the development is not in line with the planning intention of the “AGR” zone; approval of the application would set an undesirable precedent; there is insufficient information provided on its operation details; the Site should be retained for agricultural development; and the extent of land filling at the Site is considered excessive.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary place of recreation sports of culture (indoor and outdoor recreation centre) 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 824m² or 21%) by not more than 0.1m in depth for site formation of structures. 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. The applied use is not entirely in line with the planning intention of the “AGR” zone, and DAFC does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation. Nevertheless, the proposal is intended to provide space for indoor and outdoor recreational activities which can meet the needs of the neighbourhood. Approval of the application on a temporary basis for a period of 3 years 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 Site is located in a rural area comprising farmland, grass land, vacant land, animal boarding establishments, hobby farm, parking of vehicles and open storage/ storage yards. The CTP/UD&L of PlanD has no objection to the application from the landscape planning perspective and considers that the development is not incompatible with the surrounding landscape character of the area. Significant adverse landscape impact within the Site arising from the applied use is not anticipated.
- 11.3 In view of the nature and scale of the applied use, it is anticipated that the development would not cause significant adverse traffic, environmental and drainage impacts on the surrounding areas. Relevant departments consulted including C for T, CE/MN of DSD and D of FS have no adverse comment on the application. To 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 PN 5/93 on “Drainage Plans subject to Comment by the Environmental Protection Department” including percolation test as septic tank and soakaway system will be used at the Site. Regarding the existing unauthorized building works and/or uses within one of the lots involved in the Site as advised by DLO/YL of LandsD, the lot owner(s) should remedy the lease breaches as demanded by LandsD.
- 11.4 Three public comments objecting to the application were received during the statutory publication period. In this regard, the departmental comments and planning assessments and considerations as stated 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 above, the Planning Department considers that applied use could be tolerated for a period of 3 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 31.3.2026. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of a revised 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 30.9.2023;
- (b) in relation to (a) above, the implementation of the revised 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 31.12.2023;
- (c) in relation to (b) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) 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 30.9.2023;
- (e) in relation to (d) 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 31.12.2023;
- (f) if the above planning condition (c) 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;
- (g) if any of the above planning condition (a), (b), (d) or (e) 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
- (h) 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 proposed 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 on 14.2.2023
Appendix Ia	FI received on 20.3.2023
Appendix II	Government departments' general comments
Appendix III	Recommended advisory clauses
Appendix IV	Public comments
Drawing A-1	Site layout plan
Drawing A-2	Land filling plan
Plan A-1	Location plan
Plan A-2	Site plan

Plan A-3 Aerial photo

Plans A-4a Site photos
and A-4b

PLANNING DEPARTMENT
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