

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/916

<u>Applicant</u>	:	Daniel The Dog International Company Limited represented by Goldrich Planners and Surveyors Limited
<u>Site</u>	:	Lots 1499 (Part), 1504 S.A and 1504 RP in D.D. 107, Yuen Long, New Territories
<u>Site Area</u>	:	About 2,989 m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Draft Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/10
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Temporary Animal Boarding Establishment (Dog Training Ground) with Ancillary Facilities for a Period of 5 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 5 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 under the previous approved application (No. A/YL-KTN/822) (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the applied use involves five structures (not more than 2 storeys and not exceeding 8m high) with total floor area of about 648m² for dog training activity room, rain shelters, ancillary office, teaching room and storage uses. The applicant also applies for regularization of land filling for part of the Site (about 1,278m² or 43%) which has been paved 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 for training and no more 15 dogs will be allowed outdoor at the same time during the operation hours between 9:00 a.m. and 7:00 p.m. daily, including Sundays and public holidays. No dogs

will be kept at the Site after the operation hours. The enclosed structures 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 The Site is involved in two previous applications (detailed in paragraph 6 below). The previous application No. A/YL-KTN/822 for the same applied use submitted by the same applicant with similar layout as the current application, was approved with conditions by the Rural and New Town Planning Committee (the Committee) in September 2022. The current application is submitted for changes of floor area, number of storeys and structures of the animal boarding establishment. A comparison of the major development parameters submitted under the previous application No. A/YL-KTN/822 and the current application is summarised below:

Major Development Parameters	Last Application No. A/YL-KTN/822 (a)	Current Application (b)	Difference (b) - (a)
Site Area (m ²)(about)	2,989	2,989	-
Total Floor Area (m ²)	576	648	+72 (+13%)
No. of Structure(s)	4	5	+1 (+25%)
No. of Storey(s)	1	2	+1 (+100%)
Building Height (m)	3.5	8	+4.5 (+129%)
No. of Car Parking Spaces	4 (3 for private car, 1 for light goods vehicle)	4 (3 for private car, 1 for light goods vehicle)	-

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

- (a) Application form with supplementary information (**Appendix I**) received on 2.5.2023
- (b) Further information (FI) received on 1.6.2023* (**Appendix Ia**)

** exempted from publication and recounting requirements*

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 to Ia**. They can be summarised as follows:

- (a) The Site is covered by a valid planning approval No. A/YL-KTN/822. The applicant submits the current application in order to amend the major

development parameters including total floor areas, number of structures, number of storeys and the building height to cater for the demand of animal boarding services within the Kam Tin area.

- (b) The applied use is temporary in nature and will not jeopardise the long-term planning intention of the “AGR” zone.
- (c) The development is compatible with the surrounding environment and similar applications are found within the same “AGR” zone in the vicinity.
- (d) 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.
- (e) 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

- 5.1 The Site is the subject of two previous applications (Nos. A/YL-KTN/822 and 875). Application No. A/YL-KTN/822 for temporary animal boarding establishment (dog training ground) with ancillary facilities for a period of 3 years and filling of land was approved with conditions by the Committee on 23.9.2022 mainly on the considerations that the temporary approval would not frustrate the long-term planning intention; the development was not incompatible with the surrounding land uses; relevant government departments consulted in general had no adverse comments on the application or their technical concerns could be addressed by approval conditions. Approval conditions in relation to the submission of run-in/out proposal, record of the existing drainage facilities and fire service installations (FSI) proposal and implementation of the FSI proposal have been complied with. Application No. A/YL-KTN/875 for proposed house (New Territories Exempted House - Small House) is not relevant to the current application.

- 5.2 Details of these applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are 45 similar applications for temporary animal boarding establishment (27 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 application No. A/YL-KTN/759, were approved with conditions by the Committee between 2018 and 2023 mainly on similar considerations as stated in paragraph 5.1. The planning permissions for 16 of them 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 excluded from 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 under application No. A/YL-KTN/759 were included in the 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**.
- 6.4 Other than similar applications as stated in paragraphs 6.1 and 6.2 above, application No. A/YL-KTN/914 for the same use as the current application will be considered at the same meeting.

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 under the previous approved application (No. A/YL-KTN/822); and
 - (b) accessible from Shui Mei Road via a local access.
- 7.2 The surrounding areas have the following characteristics:
- (a) to its north, northwest and northeast are a plant nursery, residential dwelling/structure (the nearest about 40m), a recreational development and a hobby farm;
 - (b) to its east and southeast are a site for dog training ground, animal boarding establishment and grassland;

- (c) to its south, across Shui Mei Road and a nullah, are ponds and a holiday camp; and
- (d) to its west are fallow/active agricultural land, residential dwelling/structure 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, two public comments were received from Kadoorie Farm & Botanic Garden Corporation and an individual. The former commenter considers that the current use and land status of the Site should be clarified; and the latter commenter objects to the application mainly on the grounds that the applied use is a disguise.

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 5 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, the Director of Agriculture, Fisheries and Conservation advises that agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are also available. The Site can be rehabilitated for agricultural activities such as open-field cultivation, greenhouses, plant

nurseries, etc., though whether there will be agricultural activities on a specific site will hinge on a lot of factors. It is considered that approval of the application on a temporary basis for 5 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, the Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD) and the Director of Environmental Protection Department (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 proposed development is considered not incompatible with the surrounding areas which are rural in character intermixed by animal boarding establishment, residential dwelling / structure, fallow/active agricultural land, plant nursery, grassland and vacant land. The Chief Town Planner/Urban Design and Landscape, Planning Department has no objection to the application from the landscape planning perspective and considers that the proposed use is not incompatible with the surrounding landscape character. Although there are residential dwellings/ structures in the vicinity (the nearest about 40m to its northeast) (**Plan A-2**), all dogs (except those for outdoor dog training) will be staying inside the enclosed structures equipped with soundproofing materials, air conditioning and mechanical ventilation, and no more than 15 dogs will be allowed for outdoor activities at the same time. The applicant also states that no public announcement system will be used at the Site during the operational hours and no dogs will be kept at the Site after the operation hours. 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 the Commissioner for Transport, CE/MN of DSD and the Director of Fire Services 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 is one approved previous application No. A/YL-KTN/822 for the same applied use as stated in paragraph 5.1 above. The current application is for amending the development parameters of the approved scheme under application No. A/YL-KTN/822. There are 44 similar applications approved for temporary animal boarding establishment within the same “AGR” zone in the vicinity of the Site in the past five years and the circumstances of the only rejected application (No. A/YL-KTN/759) which involved fragmented

site as stated in paragraph 6.2 above are different from the current application. Approving the current application is in line with the Committee's previous decisions.

- 11.5 Regarding the public comments 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 comments 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 5 years until 23.6.2028. 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 existing drainage facilities on the site shall be maintained at all times during the planning approval period;
- (e) the submission of records of the existing drainage facilities on the site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 23.9.2023;
- (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 23.12.2023;
- (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 23.3.2024;

- (h) if any of the above planning condition (a), (b), (c) or (d) 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 (e), (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 applied use 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 2.5.2023
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Appendix Ia	FI received on 1.6.2023
Appendix II	Previous and 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
JUNE 2023**