

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/743

- Applicant** : Daniel The Dog International Company Limited represented by Goldrich Planners and Surveyors Limited
- Site** : Lots 1486 (Part) and 1489 (Part) in D.D. 107 and adjoining Government Land, Yuen Long, New Territories
- Site Area** : About 1,014 m² (including Government land of about 150m² (14.8%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Animal Boarding Establishment with Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary animal boarding establishment with ancillary office for a period of 3 years. According to the Notes of the OZP, ‘Animal Boarding Establishment’ is a Column 2 use within the “AGR” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by a few temporary structures for storage use without planning permission (**Plans A-2, A-4a to A-4b**).
- 1.2 The proposed development involves five 1-2 storeys structures with a total floor area of about 604m² and building height not exceeding 7m for animal boarding establishment, ancillary container office and open shed. The business hours are from 9:00a.m. to 6:00p.m. daily (including public holidays) with 24 hours animal boarding services. About 20 dogs will be accommodated at the Site. According to the applicant, no public announcement system and whistle blowing will be used at the Site. All animals will be kept indoor from 7:00 p.m. to 9:00 a.m. and the structures for animal boarding will be enclosed with soundproofing materials and provided with air-conditioning system. Three parking spaces for private car and one parking space for light goods vehicles will be provided. The Site is accessible from Chi Ho Road via local track. The site layout plan submitted by the applicant

is at **Drawing A-1**.

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

- (a) Application form with supplementary statement and plans received on 26.11.2020 **(Appendix I)**
- (b) Further Information (FI) received on 14.1.2021 in response to departmental comments **(Appendix Ia)**
[exempted from publication requirement]

2. Justifications from the Applicant

The justification put forth by the applicant in support of the application is detailed in the application form and FI at **Appendices I to Ia**, and is briefly summarized as follows:

- (a) The proposed use can meet the large demand for animal boarding services in the area.
- (b) The development involves only one to two-storey structures and is in harmony with the surrounding rural settings. The proposed development is small in scale. Customers have to give prior notification before they come.
- (c) Wastewater will be discharged to the proposed septic tank and soakaway system for treatment. Adverse traffic or drainage impacts or noise is not anticipated.

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

The applicant is not the “current land owner” for the private land portion of the Site but has complied with the requirement 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 notice at the Site 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, the “Owner’s Consent/ Notification” Requirements are not applicable.

4. Background

The Site is currently not subject to any active planning enforcement action. Should there be sufficient evidence to prove that the current operation on the Site constitutes an unauthorized development under the Town Planning Ordinance, enforcement action will be taken.

5. Previous Application

There is no previous application at the Site.

6. Similar Applications

- 6.1 There are 39 similar applications for temporary animal boarding establishment involving 26 sites within the same “AGR” zone. Except Application No. A/YL-KTN/156, which was rejected by the Rural and New Town Planning Committee (the Committee), the remaining 38 applications were approved with conditions by the Committee. Details of these applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

One Rejected Application

- 6.2 Application No. A/YL-KTN/156 for proposed dog kennel for a period of 3 years was rejected by the Committee on 8.11.2002 on the grounds that the proposed development was not in line with the planning intention of the “AGR” zone; and there was no information in the submission to demonstrate that the proposed development would not cause adverse environmental and drainage impacts on the surrounding areas.

38 Approved Applications

- 6.3 38 applications at 25 sites were approved with conditions by the Committee for 2 to 5 years between 2005 and January 2021 for similar reasons that temporary approval would not frustrate the long-term planning intention of the “AGR” zone; the developments were not incompatible with the surrounding land uses; previous approvals were granted and the applicants had made effort to comply with the approval conditions; and/or the relevant government departments generally had no adverse comments on the developments. However, planning permissions for 16 applications were revoked due to non-compliance with approval conditions.

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

- 7.1 The Site is:

- (a) currently occupied by a few temporary structures for storage use without planning permission; and
- (b) accessible from Chi Ho Road via local track.

- 7.2 The surrounding area is rural in character predominated by animal boarding establishment, dog training ground, residential structures/dwellings, parking of vehicles, hobby farm, vacant/unused land:

- (a) to its immediate west is an animal boarding establishment with planning permission. To its north and further west are dog training ground, hobby farm with planning permissions, a vacant site with planning permission for temporary animal boarding establishment and vacant/ unused land;
- (b) to its east and northeast are residential dwelling/structure, and vacant/unused land; and

- (c) to its south are a local track and residential dwellings/structures (about 40m away), parking of vehicles and unused land;

8. Planning Intention

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.

9. Comments from Relevant Government Department

- 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 of LandsD):

- (a) The Site comprises Government Land (GL) and Old Schedule Agricultural Lots 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) No permission is given for occupation of GL (about 150m² subject to verification) included in the Site. Any occupation of GL without Government’s prior approval is not allowed.
- (c) Should planning approval be given to the planning application, the lots owners will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Furthermore, the applicant has to exclude the GL portion from the Site or apply to his office for Short Term Tenancy to occupy the GL. Applications for any of the above will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application 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) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by 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 of HyD):

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Chi Ho Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads and road drains.

Environment

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

- (a) There was no environmental complaint concerning the Site received in the past three years.
- (b) Provided the applicant would minimise any noise from the proposed use such as prohibiting the use of public announcement system, portable loudspeakers or any form of audio amplification system so that it would not cause environmental nuisance to nearby sensitive receivers, he has no objection to the application from environmental planning perspective subject to the following approval condition:
 - (i) The animals shall be kept inside the enclosed structures between 7:00p.m. and 9:00a.m., as proposed by the applicant, during the planning approval period.
 - (ii) No public announcement system, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site at any time during the planning approval period.
- (c) Moreover, the applicant is also advised to (i) properly design and maintain the facilities to minimize any potential environmental

nuisance, e.g. the proposed structures for animal boarding establishment should be enclosed with soundproofing materials with provision of 24-hour mechanical ventilation and air-conditional system; (ii) to follow the requirements stipulated in “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 proposed use. If septic tank and soakaway system will be used in case of unavailability of public sewer, its design, construction and operation should follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environment Protection Department (EPD)” including percolation test; and (iv) 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 taken on 18.10.2019, the Site is situated in an area of rural landscape character comprising scattered tree groups, temporary structures, active and abandoned farmlands. Noting that similar applications (Nos. A/YL-KTN/713 and 724) of temporary animal boarding use within the “AGR” zone in proximity of the Site were approved, the application is considered not incompatible with the surrounding landscape setting. Three temporary structures are found within the Site. Numbers of existing trees are observed to the east and southwest of the Site. Referring to the applicant’s submission, existing trees near the Site will be retained. Significant adverse impact to landscape resources within the Site arising from the proposed development is not anticipated.
- (c) The applicant is reminded that approval of the planning application under Town Planning Ordinance does not imply approval of tree preservation/ removal scheme under the Lease. The applicant should seek comments and approval from the relevant authority on the proposed tree works and compensatory planting proposal, where appropriate.

Agriculture and Nature Conservation

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

- (a) Considering the Site is disturbed in nature, he has no comment

from nature conservation perspective.

- (b) The Site falls within “AGR” zone and is currently comprised of paved land and a temporary structure. The 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 greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.
- (c) The Site does not associate with any licence 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. The applicant should also be reminded that the establishment and ancillary facilities which is licensed under the Cap. 139I Public Health (Animals) (Boarding Establishment) Regulations must always fulfil the criteria listed in the Regulations. On the other hand, the animals kept by the applicant should also be properly licensed as in accordance with Cap. 421 Rabies Ordinance and he is reminded to observe Cap. 169 Prevention of Cruelty to Animals Ordinance at all times.

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, the conditions requiring the submission, implementation and maintenance of a revised drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning approval.
- (c) Detailed comments on the submitted drainage plan are at **Appendix IV**.

Building Matters

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

- (a) There is no record of approval by the Building Authority (BA) for the existing structures at the Site. He is not in a position to offer comments on their suitability for the use proposed in the

application.

- (b) 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 BA should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (c) His detailed comments on UBW, provision of access, temporary or licensed structures are at **Appendix IV**.
- (d) Detailed checking under the BO will be carried out at building plan submission stage.

Fire Safety

9.1.9 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 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 FSI 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 (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Environmental Hygiene

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

- (a) If the proposal involves any commercial / trading activities, there should be no encroachment on the public place and no environmental nuisance should be generated to the surroundings. Its state should not be a nuisance or injurious or dangerous to health and surrounding environment. Any animal carcass/ parts shall be properly wrapped or bagged before disposal and in accordance with the relevant legislation. Also, for any waste generated from the activities in the premises, the applicant should handle on their own / at their expenses.
- (b) Proper licence/ permit issue by his department is required if there

is any food business/ catering service/ activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and any other relevant legislation for the public and the operation of any business should not cause any obstruction.

District Officer's Comments

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

He has not received any comments from the locals and has no comments on the application.

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

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

10. Public Comment Received During the Statutory Publication Period

On 8.12.2020, the application was published for public inspection. During the three-week statutory publication period, one public comment from an individual was received (**Appendix III**) objecting to the application mainly on the grounds that the demand for animal boarding should be justified; and the Site and its adjoining site involve GL for animal boarding establishment use.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary animal boarding establishment with ancillary office for a period of 3 years at the "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, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The proposed use is not entirely in line with the planning intention of the "AGR" zone. DAFC does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation. However, 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.
- 11.2 The proposed use is considered not incompatible with the surrounding area which is rural in character intermixed with animal boarding establishment, dog training ground, residential structures/dwellings and vacant/unused land. Although there are residential dwellings/structures in the vicinity of the Site (the nearest about 40m on the south) (**Plan A-2**), the applicant advises that all the animals will be kept within the enclosed structures between 7:00p.m. and 9:00a.m.. The structures for animal boarding will be equipped with soundproofing material and air

conditioning. In addition, no public announcement system and whistle blowing will be used at the Site. DEP has no adverse comment on the application.

- 11.3 Relevant departments consulted including C for T, DEP, CE/MN of DSD, CTP/UD&L of PlanD and D of FS, except DAFC, have no adverse comment on the application. To minimise any possible environmental nuisance, approval conditions restricting the operation hours and outdoor animal activities and prohibiting the use of public announcement system and whistle blowing are recommended in paragraphs 12.2 (a) to (c) 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'. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions (d) to (i) recommended in paragraph 12.2 below.
- 11.4 There are 38 similar applications on 25 sites within the same "AGR" zone approved with conditions by the Committee between 2005 and 2021 as stated in paragraph 6 above. The circumstance of the only rejected application is different from the current one. Approval of this application is in line with the Committee's previous decisions.
- 11.5 One public comment was received during the statutory publication period objecting to the application. In this regard, the departmental comments and planning considerations and assessments 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 comment mentioned in paragraph 10 above, the Planning Department has no objection to the proposed temporary animal boarding establishment with ancillary office 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 22.1.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00p.m. and 9:00a.m. (except overnight animal boarding), as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) all animals shall be kept inside the enclosed animal boarding establishment on the Site between 7:00p.m. and 9:00a.m., as proposed by the applicant, at all times during the planning approval period;
- (c) no public announcement system, portable loudspeaker, 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) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) 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 22.7.2021;
- (f) in relation to (e) 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 22.10.2021;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) 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 22.7.2021;
- (i) in relation to (h) 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 22.10.2021;
- (j) if any of the above planning condition (a), (b), (c), (d) or (g) 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;
- (k) if any of the above planning condition (e), (f), (h) or (i) 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
- (l) 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.

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 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. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

Advisory Clauses

The recommended advisory clauses are attached 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 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

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| Appendix I | Application form received on 26.11.2020 |
| Appendix Ia | FI dated 13.1.2021 |
| Appendix II | Similar applications within the same “AGR” zone on the Kam Tin North OZP |
| Appendix III | Public Comment |
| Appendix IV | Advisory Clauses |
| Drawing A-1 | Layout Plan |
| Plan A-1 | Location Plan with Similar Applications |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plana A-4a to A-4b | Site Photos |

**PLANNING DEPARTMENT
JANUARY 2021**