

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

**APPLICATION NO. A/NE-TKL/685**

<b><u>Applicant</u></b>	: Mr. CHOW Wai Kong represented by Metro Planning & Development Company Limited
<b><u>Site</u></b>	: Lot 554 S.A ss.2 (Part) in D.D. 77, Ng Chow South Road, Ta Kwu Ling, New Territories
<b><u>Site Area</u></b>	: About 980 m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
<b><u>Zonings</u></b>	: “Agriculture” (“AGR”) (about 870m <sup>2</sup> or 89% of the Site); and “Industrial (Group D)” (“I(D)”) (about 110m <sup>2</sup> or 11% of the Site)
<b><u>Application</u></b>	: Proposed Temporary Animal Boarding Establishment (Dog Kennel) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a proposed temporary animal boarding establishment (dog kennel) for a period of three years at the application site (the Site) (**Plan A-1**). The Site falls mostly within an area zoned “AGR” with a minor portion encroaches onto “I(D)” zone on the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14. According to the Notes of the OZP, ‘Animal Boarding Establishment’ is a Column 2 use in both “AGR” and “I(D)” zones requiring planning permission from the Town Planning Board (the Board). The Site is currently vacant, partly covered with wild grasses and partly hard paved.
- 1.2 The Site is accessible from Ng Chow South Road (**Plan A-2**). According to the applicant, the proposed development involves four one-storey structures (3m to 4.5m in height) with a total floor area of about 295 m<sup>2</sup> for dog kennel, electricity meter room, site office and portable toilet (Structures 1 to 4) (**Drawing A-1**). Four private car parking spaces (5m x 2.5m) will be provided. The operation hours are from 9:00 a.m. to 7:00 p.m. daily, including public holidays. Not more than 12 dogs will be housed at the Site. There will be a maximum of 12 visitors on the Site per day. According to the applicant, 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, mechanical ventilation and air-conditioning. The layout plan, tree preservation plan and drainage plan submitted by the applicant are at **Drawings A-1 to A-3** respectively.

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

- |     |   |               |
|-----|---|---------------|
| (a) | Application form with attachments received on 26.8.2021                                     | (Appendix I)  |
| (b) | Supplementary Information (SI) received on 1.9.2021   | (Appendix Ia) |
| (c) | Further Information (FI) received on 14.12.2021<br>(accepted and exempted from publication) | (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, SI and FI at **Appendices I, Ia & Ib** respectively. They can be summarised as follows:

- (a) the proposed development is temporary in nature and it would not frustrate the long-term planning intention of the “AGR” zone;
- (b) the layout and scale of the proposed development is not incompatible with the surrounding environment. Similar animal boarding establishment application was approved in the vicinity of the Site;
- (c) 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, mechanical ventilation and air-conditioning;
- (d) sufficient space will be allocated for each dog within the dog kennel and no more than 12 dogs will be housed within the dog kennel;
- (e) waste matters and excreta from the dog kennel will be properly disposed of;
- (f) there would be a total of 2 vehicular trips generated during peak hours. The proposed development would not create adverse traffic impact on the surrounding area;
- (g) no significant drainage and environmental impacts on the surroundings are foreseen. Landscape and drainage proposals are submitted in support of the application; and
- (h) the dog kennel will be kept in a sanitary condition. The applicant would follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (CoP) and 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 Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No.31A) by posting site notice and sending notice to the Ta Kwu Ling District Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

#### 4. **Background**

The Site is not subject to enforcement action.

#### 5. **Previous Application**

There is no previous application for the Site.

#### 6. **Similar Application**

6.1 There is one similar application within the same “AGR” zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling area. Application No. A/NE-TKL/653 for temporary animal boarding establishment for a period of 5 years and filling of land was approved with conditions by the Committee on 22.1.2021 mainly on the grounds that temporary approval would not frustrate the long-term planning intention of the “AGR” zone; the development was not incompatible with the surrounding land uses; and there were no adverse departmental comments or the concerns could be addressed by relevant approval conditions.

6.2 Details of the application is summarised at **Appendix II** and its location is shown on **Plan A-1**.

#### 7. **The Site and Its Surrounding Areas** (Plans A-1 and A-2, aerial photo on Plan A-3 and site photos on Plan A-4)

7.1 The Site is:

- (a) currently vacant, fenced off, partly covered with wild grasses and partly hard paved; and
- (b) directly abutting Ng Chow South Road (**Plan A-2**).

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate north and east are vacant land and some temporary domestic structures respectively;
- (b) to the further east are some existing Small Houses/ Small Houses with planning permission under constructions while to the further north-east is the village proper of Ping Che village (**Plan A-1**);
- (c) to the immediate south is Ng Chow South Road and across which are car park and elderly home; and
- (d) to the further west are open storage yard of recycling materials, car services centre and warehouse in the “I(D)” 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 The planning intention of the “I(D)” zone is intended primarily for industrial uses that cannot be accommodated in conventional flat factories due to extensive land and/or high ceiling requirements. It is also intended for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings.

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

- 9.1 The following government departments have been consulted and their views on the application are summarised as follows:

### **Land Administration**

- 9.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):
- (a) the lot under application is an Old Schedule lot held under the Block Government Lease (demised for agricultural use) without any guaranteed right of vehicular access. The applicant should make his own arrangement for acquiring access to the Site, and there is no guarantee that any adjoining government land will be allowed for vehicular access to the Site for the proposed use;
  - (b) the applicant should note that any proposed toilet facility should meet the current health requirements; and
  - (c) should the application be approved, the owner of the lot concerned shall apply to her office for a Short Term Waiver (STW) covering all the actual occupation area and structures concerned. The application for STW will be considered by government in its landlord's capacity and there is no guarantee that it will be approved. Should the STW be approved, its commencement date would be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fees as considered appropriate by her office.

### **Traffic**

- 9.1.2 Comments of the Commissioner for Transport (C for T):
- (a) based on the FI submitted by the applicant, there would be a total of 2 vehicular trips generated during peak hours (i.e. from 7:00 a.m. to 9:00 a.m. and from 5:00 p.m. to 7:00 p.m.). In view of the minimal vehicular trips generated by the proposed development, she considers that the traffic impact induced by the temporary development is tolerable from the traffic engineering point of view; and

- (b) the vehicular access between the Site and Ng Chow South Road is not managed by her office. The applicant should seek comment from responsible party.

9.1.3 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- (a) the section of Ng Chow South Road adjacent to the Site (**Plan A-2**) is under HyD's maintenance purview. However, the proposed access to the Site will pass through a strip of land between the footpath of Ng Chow South Road and the Site, which is not maintained by his office. The applicant is required to sort out the land issues with the relevant land authority;
- (b) the u-channel proposed along the Site boundary should be designed that no surface run-off will flow from the Site onto the adjacent public road; and
- (c) should the application be approved, the applicant is required to construct a proper ingress and egress for the Site according to HyD's Standard Drawings. Upon termination of the temporary use, the applicant is required to reinstate the ingress and egress to their original state to his satisfaction and at his own cost.

**Environment**

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

- (a) having reviewed the applicant's submission in **Appendices I, Ia and Ib**, he has no objection to the application subject to the approval condition for the implementation of environmental mitigation measures proposed by the applicant, including the use of acoustic panels, mechanical ventilation and air-conditioning system for the kennel, and disposal of waste matter and excrement of dogs by septic tank and soakaway system or appropriate treatment;
- (b) the applicant should be reminded of his obligation to comply with environmental protection / pollution control ordinances, including but not limited to Water Pollution Control Ordinance and Noise Control Ordinance, and to follow all requirements and mitigation measures in EPD's latest CoP. His detailed comments are appended at **Appendix IV**; and
- (c) there was no substantiated environmental complaints against the Site during the past three years.

**Drainage**

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

- (a) he has no objection to the application;
- (b) the Site is in an area where no public sewerage connection is available; and

- (c) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal to ensure that it will not cause adverse drainage impact on the adjacent area.

### **Building Matters**

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

- (a) there is no record of submission of the proposed building/ structure to BD for approval; and
- (b) his advisory comments are appended at **Appendix IV**.

### **Fire Safety**

9.1.7 Comments of the Director of Fire Services (D of FS):

- (a) he has no in-principle objection to the application subject to fire service installations (FSIs) being provided to the satisfaction of his department; and
- (b) his advisory comments are appended at **Appendix IV**.

### **Landscape**

9.1.8 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 point of view, as significant adverse landscape impact arising from the temporary development is not anticipated;
- (b) the Site is located in an area of miscellaneous rural fringe predominated by Small Houses, vacant land, scattered tree groups, temporary structures and open storage yard. The temporary development is considered not entirely incompatible to the landscape character of the surrounding area; and
- (c) should the application be approved, it is considered not necessary to impose a landscape condition since the significant adverse visual impact arising from the proposed use is not envisaged.

### **Agriculture and Licensing**

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

- (a) there are active agricultural activities 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 and plant nurseries. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view;

- (b) the Site does not associate with any licence granted by his office, nor has 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 office. The applicant should also be reminded that the establishment and ancillary facilities which is licensed under the Cap. 139I must always fulfil the criteria listed in the Regulations;
- (c) the dogs kept by the applicant should also be properly licensed as in accordance with the Rabies Ordinance (Cap. 421) and he is reminded to observe the Prevention of Cruelty to Animals Ordinance (Cap. 169) at all times;
- (d) detailed information and guidance on animal boarding establishment would be provided upon the receipt of the licence application; and
- (e) his advisory comments are appended at **Appendix IV**.

### **Environmental Hygiene**

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

- (a) he has no adverse comments on the application from environmental hygiene point of view; and
- (b) his advisory comments are appended at **Appendix IV**.

### **District Officer's Comments**

9.1.11 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- he has consulted the locals regarding the application. The incumbent North District Council member of subject constituency and the Chairman of Fung Shui Area Committee had no comment to the proposal. The 1<sup>st</sup> Vice-Chairman of Ta Kwu Ling District Rural Committee, the Indigenous Inhabitant Representative (IIR) and the Resident Representative (RR) of Ping Che objected to the proposal on the grounds that there are domestic structures/ squatters in the vicinity of the Site and the proposed development would induce adverse impacts to the living condition of local residents.

9.2 Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.

## **10. Public Comments Received During Statutory Publication Period (Appendix III)**

On 3.9.2021, the application was published for public inspection. During the statutory public inspection period, 2 public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. An individual objects to the application on the grounds that applications for animal boarding services were disproportionate to the local demand in the area; and the Site, which is surrounded by brownfield uses, is not suitable for animal boarding use.

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

- 11.1 The application is for a temporary animal boarding establishment for a period of three years at the Site mainly zoned “AGR” on the OZP. The proposed use is not entirely 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, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from the agriculture point of view as the Site possesses potential for agricultural rehabilitation. Nonetheless, the proposed animal boarding establishment is temporary in nature for a period of three years, approval of the application on a temporary basis would not jeopardise the long-term planning intention of the “AGR” zone.
- 11.2 The proposed development comprising mainly some temporary structures for dog kennel is considered not incompatible with the surrounding area, which is rural in character predominated by a mix of vacant land, temporary structures, village houses and open storage yards in the proximity. In this regard, CTP/UD&L of PlanD has no objection to the application from landscape point of view as significant adverse landscape impact arising from the temporary development is not anticipated.
- 11.3 The Site is directly accessible via Ng Chow South Road. Having reviewed the FI submitted by the applicant, C for T considers that the traffic impact induced by the proposed development is considered tolerable from traffic engineering point of view. Regarding the possible environmental impact, the applicant indicates that relevant measures including the use of acoustic panels, mechanical ventilation and air-conditioning system for the kennel and disposal of waste matter and excrement of dogs by septic tank and soakaway system or appropriate treatment. DEP has no objection to the application. Should the application be approved by the Committee, relevant approval condition on implementation of the environmental mitigation measures to the satisfaction of DEP is recommended. Moreover, the applicant will be advised to follow the latest CoP issued by DEP to minimise the potential environmental impacts on the surrounding areas. Other relevant government departments consulted, including CE/MN of DSD, D of FS and CE/C of WSD, have no adverse comment on/no objection to the application.
- 11.4 The Site is not subject to any previous application. There is one similar application within the same “AGR” zone in the vicinity of the Site. Application No. A/NE-TKL/653 for temporary animal boarding establishment with filling of land was approved by the Committee on 22.1.2021 mainly on the grounds that temporary approval would not frustrate the long-term planning intention of the “AGR” zone; the development was not incompatible with the surrounding land uses; and there were no adverse departmental comments or the comments can be addressed by approval conditions. The planning circumstances of the current application is similar to the approved application.
- 11.5 Regarding the local objection mainly on environmental concerns as conveyed by DO(N), HAD and the adverse public comments as detailed in paragraphs 9.1.11 and 10 above respectively, government departments’ comments and planning assessments above are relevant.

## **12. Planning Department’s View**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the local objection conveyed by DO(N), HAD and public comments mentioned in paragraphs 9.1.11 and 10 respectively, 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 28.1.2025. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) all animals shall be kept inside the enclosed structures on the Site, as proposed by the applicant, during the planning approval period;
- (b) no public announcement system or whistle blowing is allowed to be used on the Site at any time during the planning approval period;
- (c) 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;
- (d) in relation to (c) above, the provision of drainage facilities 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;
- (e) the submission of run-in/out proposal within **6** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 28.7.2022;
- (f) in relation to (e) above, the implementation of run-in/out proposal within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 28.10.2022;
- (g) the submission of proposals for fire service installations and water supplies for firefighting 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 proposals for fire service installations and water supplies for firefighting 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) the implementation of environmental mitigation measures within **9** months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by 28.10.2022;
- (j) if any of the above planning conditions (a) or (b) 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 conditions (c), (d), (e), (f), (g), (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 portion of the Site falls within "AGR" zone 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 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 proposed development is not in line with the planning intention of the "Agriculture" zone which is primarily to retain and safeguard good 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 in the submission for a departure from such 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 the 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 attachments received on 26.8.2021
<b>Appendix Ia</b>	Supplementary Information received on 1.9.2021
<b>Appendix Ib</b>	Further Information received on 14.12.2021
<b>Appendix II</b>	Similar application
<b>Appendix III</b>	Public Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Site Layout Plan
<b>Drawing A-2</b>	Tree Preservation Plan
<b>Drawing A-3</b>	Drainage Plan
<b>Plan A-1</b>	Location Plan
<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**