

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

**APPLICATION NO. A/NE-TKL/653**

- Applicant** : Animals Volunteer Charity Limited
- Site** : Taxlord Lot T14 RP (Part) in D.D. 82, Ping Che, Ta Kwu Ling, New Territories
- Site Area** : About 2,267 m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
- Zoning** : “Agriculture” (“AGR”)
- Application** : Temporary Animal Boarding Establishment for a Period of 5 Years and Filling of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a temporary animal boarding establishment for a period of five years and filling of land at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “AGR” 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 “AGR” zone and any filling of land including that to effect a change of use specified in Column 2 require planning permission from the Town Planning Board (the Board).
- 1.2 According to the information provided by the applicant, the applicant is a group of volunteers providing an animal shelter for stray dogs/cats at the Site. The temporary development involves an existing stone-built structure and 10 one-storey temporary structures with a total floor area of about 642.7m<sup>2</sup> and building height of 2.4m to 3.7m for dog/cat shelters, staff rest room and storage use (**Drawing A-1**). The development is open to visitors only on Saturdays and Sundays and advanced booking is required. Not more than 250 dogs/cats will be accommodated at the Site. No public announcement system and whistle blowing will be used at the Site. All dogs will be kept indoor and the structures for an animal shelter will be enclosed with acoustic panels and equipped with mechanical ventilation and air conditioning. One private car parking space and one parking space for light goods vehicles would be provided at the Site. The Site is currently used as animal shelter without valid planning permission. This application is intended to regularise the temporary animal boarding establishment use with partial filling of land. The layout plan with paved area submitted by the applicant is at **Drawing A-1**.

1.3 The Site forms part of the subject of three previous applications (No. A/NE-TKL/312, 319 and 336) for proposed temporary animal boarding establishment / dog club submitted by a different applicant as the current application. The last application (No. A/NE-TKL/336) for proposed temporary dog club (including a dog swimming pool) for a period of 3 years was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 25.6.2010. The planning permission had lapsed on 26.6.2013.

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

- |     |  |               |
|-----|--|---------------|
| (a) | Application form with attachments received on 26.11.2020 | (Appendix I)  |
| (b) | Supplementary Information received on 30.11.2020         | (Appendix Ia) |
| (c) | Further Information (FI) received on 4.1.2021 ^          | (Appendix Ib) |
| (d) | FI received on 7.1.2021 ^                                | (Appendix Ic) |

^ accepted but exempted from publication

## 2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the application form and further information at **Appendices I, Ia to Ic** respectively. They can be summarized as follows:

- (a) the applicant is a group of volunteers providing an animal shelter for stray dogs/cats at the Site. Not more than 250 dogs/cats would be kept within the Site;
- (b) the hard paved area involving filling of land of about 1,000m<sup>2</sup> with a depth of 0.1m is required to provide a solid base for structures, create a better environment for the movement of dogs/cats and facilitate the transport of daily goods. Such paved area has already been minimised;
- (c) the development is open to visitors only on Saturdays and Sundays and advanced booking is required. There would be minimal vehicular trips generated by the development;
- (d) all the existing trees within the Site would not be affected; and
- (e) to address environmental concerns, the applicant would implement the following environmental mitigation measures:
  - (i) there would be 2-3 staff on Site around the clock to manage the animals and handle complaints, if any;
  - (ii) all animals would be kept in enclosed structures with acoustic panels and mechanical ventilation and air-conditioning system at all times, and no animal would be allowed outdoor;
  - (iii) no public announcement system, whistle blowing, portable loudspeaker or any form of audio amplification system would be used on Site;
  - (iv) the applicant would submit drainage proposal to the satisfaction of Drainage Services Department (DSD) upon the granting of planning approval. The Site would be connected to the existing public sewer if DSD advises it is technically feasible. Otherwise, the use of septic tank and soakaway system (STS) in accordance with ProPECC PN 5/93 should be adopted for sewage treatment and disposal;

- (v) good housekeeping would be provided to maintain good hygiene condition on site to avoid unacceptable odour impact; and
- (vi) should the temporary development causes any nuisance, or should any environmental complaint is received, the applicant would review the existing mitigation measures, and provide further measures to remedy the situation promptly.

### **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 Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Background**

According to the Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD), the Site is subject to an active enforcement action against filling of land. Enforcement Notice was issued to the Notice recipients on 3.9.2019, requiring them to reinstate the concerned land by 3.12.2019. As the Site has not been reinstated as required by Notice, the defendants were convicted and fined on 28.10.2020.

### **5. Previous Applications**

- 5.1 The Site forms part of the three previous planning applications (No. A/NE-TKL/312 and 319 and 336) submitted by a different applicant as the current application.
- 5.2 Application No. A/NE-TKL/312 for temporary animal boarding establishment for a period of five years was rejected by the Committee on 19.12.2008 for the reasons that the proposed development was not in line with the planning intention of the “AGR” zone and insufficient information was provided to demonstrate that the proposed use would not generate adverse environmental impact in terms of noise, air/odour and water quality pollution on the surrounding areas.
- 5.3 Application No. A/NE-TKL/319 for proposed temporary dog club and plant nursery for a period of three years was approved by the Committee on 10.7.2009 on the grounds that the application had certain improvements (e.g. no dog caring services proposed and with restricted operation hours) when comparing with the previously rejected application No. A/NE-TKL/312 and there were no major adverse impacts or adverse departmental comments on the application. The application was revoked on 10.1.2010 due to non-compliance with approval conditions related to car parking, drainage and fire-fighting.
- 5.4 The last application (No. A/NE-TKL/336) for proposed temporary dog club (including a dog swimming pool) for a period of 3 years was approved by the Committee on 25.6.2010 on the grounds that there were no major adverse impacts or adverse departmental comments on the application; and temporary approval would not frustrate the long-term planning intention of the “AGR” zone. The planning permission had lapsed on 26.6.2013.
- 5.5 Details of the previous applications are summarized at **Appendix II** and its location is

shown on **Plan A-1**.

## **6. Similar Application**

There is no similar application within the same “AGR” zone on the OZP.

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

7.1 The Site is:

- (a) occupied by temporary structures for animal shelters without valid planning permission; and
- (b) directly abutting Ping Che Road (**Plan A-1**).

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate north and west are fallow agricultural land and a watercourse (**Plan A-2**);
- (b) to the immediate east is Caritas Nursery School Ta Kwu Ling and Caritas Wong Fung Ting Home within the “Government, Institution or Community” zone;
- (c) to the immediate south-east are a mix of temporary domestic structures, active agricultural land and unused land; and
- (d) to the south-west across Ping Che Road are a mix of temporary domestic structures, vacant land, open storage of containers, vehicle repair workshops and open storage yard of construction materials.

## **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 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 Old Schedule lot held under the Block Government Lease (demised for agricultural use) without any guaranteed right of vehicular access. The applicant should make its own arrangement,

and there is no guarantee that any adjoining Government Land between the Site and Ping Che Road will be allowed for vehicular access of the temporary use;

- (b) the existing structures on the Site were erected without approval from her office. The aforesaid structures are not acceptable under the Leases concerned. Her office reserves the right to take enforcement actions against the aforesaid structures;
- (c) the applicant should make precautionary measures to restrict the scale of land filling activity so as to ensure no private lots/ Government land adjacent to the Site would be disturbed. Besides, the applicant should also comply with all the relevant requirements imposed by relevant Government departments, if any;
- (d) the applicant should be reminded to meet the current health requirements before the concerned sewerage work is implemented; and
- (e) 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. If the STW is 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):

based on the further information submitted by the applicant (**Appendix Ic**) and in view of the temporary development will generate minimal vehicular trips, he considered that the traffic impact induced by the temporary development is tolerable from the traffic engineering point of view.

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

- (a) adequate drainage measures should be provided to prevent surface water running from the Site to Ping Che Road;
- (b) the ingress and egress to the Site will pass through a strip of unallocated Government land between the Site and Ping Che Road. The applicant is required to sort out the land issues with the relevant land authority; 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 and 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 and Ia**, he has no objection to the application subject to the imposition of approval conditions on (i) implementation of environmental mitigation measures to his satisfaction and (ii) prohibiting the use of any audio amplification system on Site. Detailed comments are appended at **Appendix III**; and
- (b) 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 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 for the Site to ensure that it will not cause adverse drainage impact to the adjacent area. In their submission, the applicant is required to assess and identify the project's potential drainage impacts and demonstrate in their submission with the implementation of necessary mitigation measures, the project will not cause an unacceptable increase in the risk of flooding in areas upstream of, adjacent to or downstream of the development. His advisory comments are appended at **Appendix III**.

### **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 approval by the Building Authority for the existing buildings/structures at the Site and BD is not in a position to offer comments on their suitability for the use related to the application; and
- (b) there is also no record of submission of the proposed building/ structure to BD for approval. His advisory comments are at **Appendix III**.

### **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 III**.

## **Landscape**

9.1.8 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) in view that significant adverse landscape impact arising from the temporary development is not envisaged, she has no objection to the application from landscape point of view;
- (b) the Site is located in an area of miscellaneous rural fringe adjoining rural inland plains landscape character, predominated by a mix of farmlands, vacant lands and institutional buildings with open storage yards in the proximity. The temporary development is considered not incompatible to the landscape character of the surrounding area. The layout of the development is not in conflict with existing trees; and
- (c) should the application be approved, it is considered appropriate to impose an approval condition to maintain all existing trees within the Site in good condition.

## **Nature Conservation**

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

- (a) agricultural activities in the vicinity of the Site are found. Agricultural infrastructures such as water supply and road access are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the subject site possesses potential for agricultural rehabilitation, the application for the temporary use and land filling is not supported from agricultural point of view; and
- (b) the Site does not associate with any licence granted by this department, nor have we received any application regarding this address. 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 this 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 dogs kept by the applicant should also be properly licensed as in accordance with Cap. 421 Rabies Ordinance and the applicant is reminded to observe Cap 169 Prevention of Cruelty to Animals Ordinance at all times.

## **Environmental Hygiene**

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

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

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

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

- (a) he has consulted the locals regarding the application. The incumbent North District Council member of subject constituency supported the proposal. The Indigenous Inhabitant Representative (IIR) of Tai Po Tin, the IIR of Lei Uk, the IIR of Chow Tin Tsuen, one out of 4 IIRs of Ping Yeung and the Resident Representative (RR) of Chow Tin Tsuen objected to the proposal on the grounds of adverse environmental and traffic impact to the surrounding areas including a nursery school in the vicinity; and
- (b) the First Vice-Chairman of Ta Kwu Ling District Rural Committee, the IIR and RR of Tong Fong, the RR of Tai Po Tin, the RR of Lei Uk, the IIR and RR of Ping Che, IIR of Chow Tin Tsuen, the IIR and RR of Fung Wong Wu, the IIR and RR of Kan Tau Wai, the other three IIRs and the RR of Ping Yeung, the RR of Sheung Shan Kai Wat, the RR and IIR of Ha Shan Kai Wat had no comment on the application.

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

- (a) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD);
- (b) Commissioner of Police (C of P); and
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

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

On 4.12.2020, the application was published for public inspection. During the statutory public inspection period, two public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. An individual raised concern on the possible negative impact to the elderly home and nursery school in the vicinity.

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

11.1 The application is for a temporary animal boarding establishment for a period of 5 years with filling of land at the Site zoned "AGR" on the OZP. According to the information provided by the applicant, the applicant is a group of volunteers providing an animal shelter for stray dogs/cats. The temporary 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, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from agricultural point of view as the Site possess potential for agricultural rehabilitation. Nevertheless, the animal boarding establishment is temporary in nature for a period of 5 years, approval of the application on a temporary basis would not jeopardize the long-term planning intention of the "AGR" zone.

11.2 The temporary development comprises mainly some temporary structures for animal shelter with ancillary supporting facilities is considered not incompatible with the surrounding area which is rural in character predominated by a mix of active/fallow farmlands, vacant lands



and institutional buildings with some open storage yards in the proximity (**Plan A-2**). 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 envisaged. Regarding the possible environmental impact and noise nuisances, the applicant indicated that relevant measures including the use of acoustic panels and mechanical ventilation and air-conditioning system for the shelter and disposal of wastewater and excrement of dogs/cats by septic tanks/connection to the public sewers nearby. DEP has no objection to the application. Should the application be approved by the Committee, relevant approval conditions on the environmental mitigation measures to the satisfaction of DEP is recommended. C for T considered that the traffic impact induced by the temporary development is tolerable from the traffic engineering point of view. Other relevant departments consulted including DLO/N of LandsD, CHE/NTE of HyD, D of FS and CE/MN of DSD have no adverse comment on / no objection to the application.

- 11.3 The Site forms part of the subject of three previous applications (No. A/NE-TKL/312, 319 and 336) submitted by same applicant, but different from the applicant of the current application. Of them, planning application A/NE-TKL/312 for proposed temporary animal boarding establishment was rejected by the Committee in 2008 mainly on the grounds that there were insufficient information to demonstrate that the proposed use would not generate adverse environmental impact on the surrounding areas. The other two applications (No. A/NE-TKL/319 and 336) for proposed temporary dog club were approved with conditions by the Committee between 2009 and 2010 mainly on the grounds that there were no major adverse impacts or adverse departmental comments on the application; there was previously approved application for similar use; and temporary approval would not frustrate the long-term planning intention of the “AGR” zone. Although the proposed uses (i.e. temporary dog club and plant nursery/temporary dog club including dog swimming pool) of the two previously approved applications (No. A/NE-TKL/319 and 336) are different from the use under the current application (i.e. temporary animal boarding establishment), their nature of use and associated impacts on the surrounding area are similar. In this regard, the planning circumstances of the current application are similar to those two approved applications.
- 11.4 No adverse public comment on the application was received. Regarding the local objection mainly on traffic and environmental concerns as conveyed by DO(N), HAD as detailed in paragraph 9.1.11 above, the Government department’s comments and the planning assessment above are relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the local objection conveyed by DO(N), HAD mentioned in paragraph 9.1.11, 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 22.1.2026. 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, 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;
- (c) all existing trees on Site shall be maintained in good condition at all times during the planning approval period;
- (d) the peripheral fencing shall be maintained on Site at all times during the planning approval period;
- (e) the implementation of environmental mitigation measures, as proposed by the applicant, 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 22.10.2021;
- (f) the submission of 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;
- (g) in relation to (f) 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 22.10.2021;
- (h) 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 22.7.2021;
- (i) in relation to (h) 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 22.10.2021;
- (j) 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 22.7.2021;
- (k) in relation to (j) 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 22.10.2021;
- (l) if any of the above planning conditions (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;
- (m) if any of the above planning conditions (e), (f), (g), (h), (i), (j) or (k) 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
- (n) 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 at **Appendix III**.

12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

- the temporary use 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 26.11.2020
<b>Appendix Ia</b>	Supplementary Information received on 30.11.2020
<b>Appendix Ib</b>	FI received on 4.1.2021
<b>Appendix Ic</b>	FI received on 7.1.2021
<b>Appendix II</b>	Previous Applications
<b>Appendix III</b>	Recommended Advisory Clauses
<b>Appendix IV</b>	Public Comments
<b>Drawing A-1</b>	Site Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
JANUARY 2021**