

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

**APPLICATION NO. A/YL-KTS/935**

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|---------------------------|---|--|
| <b><u>Applicant</u></b>   | : | HK Saving Cat and Dog Association Limited represented by Mr. LAU Sau Shing Patrick |
| <b><u>Site</u></b>        | : | Government Land in D.D. 103. Kam Tin, Yuen Long                                    |
| <b><u>Site Area</u></b>   | : | About 1,370m <sup>2</sup>  |
| <b><u>Land Status</u></b> | : | Government Land (Short Term Tenancy No. 3221 for animal boarding establishment)    |
| <b><u>Plan</u></b>        | : | Approved Kam Tin South Outline Zoning Plan No. S/YL-KTS/15                         |
| <b><u>Zoning</u></b>      | : | “Agriculture” (“AGR”)  |
| <b><u>Application</u></b> | : | Proposed Temporary Animal Boarding Establishment for a Period of 5 Years           |

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary animal boarding establishment for a period of 5 years. The Site is zoned “AGR” on the Kam Tin South OZP (**Plan A-1**) and ‘animal boarding establishment’ is a Column 2 use in the “AGR” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently fenced, vacant and partly vegetated and partly overgrown with weeds (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed temporary animal boarding establishment is for homeless animal shelter. The proposed development involves the erection of five single-storey structures (maximum 3m high) with a total floor area of about 500m<sup>2</sup> for dog and cat shelters, adoption area, office, store, washing and grooming, inspection and isolation, and lavatories, etc. The applicant states that the proposed animal boarding establishment will accommodate 100 dogs and 50 cats at one time. The animals will be kept inside the enclosed structures built with soundproofing and 24-hour mechanical ventilation and air-conditioning system. 3 staff members and 4 regular volunteers will be stationed on-site to take care of the animals as well as reach out for animal rescue operations. The operation hours of the proposed development are between 9:00 a.m. and 9:00 p.m. daily except for

overnight animal boarding. No dogs and cats will stay outdoor between 9:00 p.m. and 9:00 a.m. No public announcement system, whistle blowing or any form of audio amplification system will be used at the Site. A private car parking space and a taxi lay-by are proposed within the Site. The Site is accessible via a local track branching off from Kam Tin Road (**Plan A-1**). The site layout plan and landscape plan submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.3 The Site is the subject of a previous application (No. A/YL-KTS/791) for the same temporary animal boarding establishment use, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) in August 2018 (details at paragraph 5 below). The planning permission is valid until 3.8.2023.
- 1.4 Compared with the last approved application which was submitted by the same applicant, the current application is generally the same in terms of the applied use, site area / boundary and major development parameters, except the reduction of site area from 1,393m<sup>2</sup> to 1,370m<sup>2</sup>, total floor area from 580.77m<sup>2</sup> to 500m<sup>2</sup> and some other changes made to the internal layout at its detailed design stage.
- 1.5 In support of the application, the applicant has submitted the following documents:
  - (a) Application form with supplementary information (**Appendix I**) received on 13.7.2022
  - (b) Further information (FI) received on 30.8.2022 (**Appendix Ia**)

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

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

- (a) The applicant is a non-profit making charitable organization. The applicant's animal shelter has been providing a safe place for sick, injured or abandoned cats and dogs to stay. The applicant is an official collaborator with the Agriculture, Fisheries and Conservation Department. In 2017, it was able to find homes for more than 600 cats and dogs. However, the ability to save more lives is constrained by the physical capacity of the current shelter, which is about 150m<sup>2</sup> inside an industrial building. Also, due to the limited space, the applicant needs to consistently turn down rescue requests in past few years. In this regard, the applicant would like to expand its operation in a timely manner and contribute more to the animal welfare.
- (b) The applicant is committed to helping the community taking care of stray animals in the rural areas arising from the implementation of various New Development Areas projects.

- (c) The applicant is ready to step up the rescue effort through expanding the dog and cat shelter, which will not only be a safe place for sick/injured animals to recover and a temporary home for those waiting to be adopted, but also be a good sanctuary for animals deemed not suitable for adaption.
- (d) The proposed development will not induce adverse transport, environmental, drainage and landscape impacts to the surrounding areas. The applicant has enclosed the accepted drainage, fire service installations and landscape proposals prepared under the last application for relevant departments' consideration.
- (e) Relevant practice notes and guidelines issued by concerned government departments will be strictly followed to minimise the possible environmental nuisance and impacts to the surrounding area.
- (f) Whilst the Site is the subject of a previously approved application No. A/YL-KTS/791 submitted by the applicant for the same use, its implementation has been delayed in the past few years mainly owing to the COVID-19 pandemic, time taken to resolve the technical issues associated with its detailed design, handling of land administration matters and seeking funding support from the government on the project. In this regard, a fresh application is submitted to the Board for continued implementation of the project.

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

As the Site involves government land only, the “owner’s consent/notification” requirement 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. 31) is not applicable to the application.

### **4. Background**

The Site is not subject to any planning enforcement action.

### **5. Previous Application**

- 5.1 The Site is the subject of a previous application No. A/YL-KTS/791 submitted by the same applicant for the same temporary animal boarding establishment use, which was approved with conditions by the Committee on 3.8.2018 for a period of 5 years. The application was approved mainly on the grounds that temporary approval would not jeopardize the long-term planning intention; the development was considered not incompatible with the surrounding rural land uses; relevant departments in general had no objection; and the technical concerns of relevant departments could be addressed by appropriate approval conditions. The planning permission is valid until 3.8.2018.

- 5.2 Compared with the last approved application No. A/YL-KTS/791, the current application is generally the same in terms of the applied use, site area / boundary and major development parameters, except for the reduction of site area from 1,393m<sup>2</sup> to 1,370m<sup>2</sup>, total floor area from 580.77m<sup>2</sup> to 500m<sup>2</sup> and changes made to the internal layout of the scheme at its detailed design stage.
- 5.3 Details of the previous application are summarized in **Appendix II** and the location is shown on **Plan A-1**.

## **6. Similar Applications**

There are two similar applications (No. A/YL-KTS/790 and 867), involving the same site, for temporary animal boarding establishment within the “AGR” zone in the vicinity of the Site in the past 5 years. The two applications were approved with conditions by the Committee in August 2018 and December 2020 respectively on similar grounds as stated in paragraph 5.1 above. Details of the application are summarized in **Appendix II** and the locations are shown on **Plan A-1**.

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

- 7.1 The Site is:
- (a) currently vacant, fenced and partly vegetated and partly covered with weeds; and
  - (b) accessible from Kam Tin Road via a local track.
- 7.2 The surrounding areas have the following characteristics:
- (a) to its west and northwest across the local track are residential structures/dwellings (the nearest about 20m to the west), open storage/storage yards (one of which with valid planning permission) and parking of vehicles;
  - (b) to its north are workshop, the Civil Engineering and Development Department’s site office and grassland;
  - (c) to its east and northeast are a storage yard, residential structures/dwellings, a pond and vacant land; and
  - (d) to its south and southwest are the Au Tau Water Treatment Works, parking of vehicles and an animal boarding establishment with valid planning permission.

## **8. Planning Intention**

The planning intention of the “AGR” zone is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

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

9.1 All government 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.

9.2 The following government bureau supports the application:

### Policy Aspect

Comments of the Development Bureau (DEVB):

- (a) the application is supported from the policy perspective of the DEVB;
- (b) the proposed temporary animal boarding establishment is one of the projects being sponsored by DEVB’s funding scheme to support the use of vacant government site by non-government organisations. Upon the approval of the first stage funding in April 2020, the applicant has engaged consultants and contractors to carry out detailed design and site investigation. The project progress was then affected by the COVID situation and other unforeseeable technical constraints. Nevertheless, the applicant and their consultant team have been endeavouring to catch up the project programme as well as fulfil the planning approval conditions on drainage, fire service installations and landscape aspects. They have recently completed the detailed design and secured second stage funding for the construction, which was commenced in August 2022; and
- (c) it is expected that upon completion of the project, tentatively by next year, the premises would enable the applicant to step up its operation scale and services to help more stray animals, including those in the rural areas arising from the progressive implementation of various New Development Areas projects.

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

The application was published for public inspection. During the statutory public inspection period, four public comments were received. An individual supports the application from the land use planning perspective. The other three individuals object to the application mainly on the grounds that the proposed development is not in line with the planning intention; it will generate adverse environmental impacts

and nuisance to the nearby residents; and the applicant has taken an unreasonable period of time but still cannot comply with all the approval conditions stipulated by the Board for the previous application.

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

- 11.1 The application is for proposed temporary animal boarding establishment for a period of 5 years at the Site zoned “AGR” (**Plan A-1**). 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 proposed development is not in line with the planning intention of the “AGR” zone, DAFC has no comment on the application from agricultural and nature conservation perspectives. It is considered that approval of the application on a temporary basis for a period of five years would not frustrate the long-term planning intention of the “AGR” zone.
- 11.2 The Site is located in an area of rural fringe comprising temporary structures, village houses and scattered tree groups with the Au Tau Water Treatment Works located in the south. The CTP/UD&L of PlanD has no objection to the application from the landscape planning perspective and considers that the proposed development is not incompatible with the surrounding landscape character of the area. Significant adverse impact on the existing landscape resources arising from the proposed use is not anticipated. Although there are residential structures/dwellings in the vicinity (the nearest about 20m to its west) (**Plan A-2**), the applicant states that all animals will be kept inside the enclosed structures equipped with sound-proofing materials, air conditioning and mechanical ventilation between 9:00 p.m. and 9:00 a.m. In addition, no public announcement system, whistle blowing or any form of audio amplification system will be used at the Site. DEP has no objection to the application.
- 11.3 Other relevant departments consulted, including C for T, CE/MN of DSD and D of FS, have no adverse comment on the application. To minimize the possible environmental nuisances generated by the 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 Uses” issued by DEP, 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 The Site is the subject of a previous application No. A/YL-KTS/791 for the same applied use submitted by the same applicant which was approved by the Committee in 2018 for reasons as stated in paragraph 5.1 above. When compared with the last approved application, the current application has slightly reduced the site area and total floor area, and made some changes to

the internal layout at its detailed design stage. In addition, the Committee approved two similar applications (No. A/YL-KTS/790 and 867), involving the same site, for temporary animal boarding establishment in 2018 and 2020 in the same “AGR” zone. Approval of the current application is in line with the previous decisions of the Committee.

- 11.5 Apart from the supporting view, three public comments objecting to the application were received during the statutory publication period as mentioned in paragraph 10 above. In this regard, 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 above, 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 9.9.2027. The following approval conditions and advisory clauses are also suggested for Members’ reference:

### Approval conditions

- (a) all animals shall be kept inside the enclosed structures from 9:00 p.m. to 9:00 a.m., as proposed by the applicant, during the planning approval period;
- (b) 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;
- (c) the implementation of the accepted 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 9.3.2023;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the implementation of the accepted 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 9.3.2023;
- (f) the submission of a revised landscape proposal within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 9.3.2023;

- (g) in relation to (f) above, the implementation of the revised landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 9.6.2023;
- (h) if any of the above planning condition (a), (b) 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; and
- (i) if any of the above planning condition (c), (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.

#### Advisory clauses

The recommended advisory clauses are attached in **Appendix IV**.

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

the proposed development is not in line with the planning intention of the "AGR" zone which is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. This zone is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

### **13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

### **14. Attachments**

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| <b>Appendix I</b> | Application form with supplementary information received on 13.7.2022 |
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|---------------------|--|
| <b>Appendix Ia</b>  | FI received on 30.8.2022                 |
| <b>Appendix II</b>  | Similar and previous applications        |
| <b>Appendix III</b> | Government departments' general comments |
| <b>Appendix IV</b>  | Recommended advisory clauses             |
| <b>Appendix V</b>   | Public comments                          |
| <b>Drawing A-1</b>  | Site layout plan                         |
| <b>Drawing A-2</b>  | Landscape plan                           |
| <b>Plan A-1</b>     | Location plan with similar applications  |
| <b>Plan A-2</b>     | Site plan                                |
| <b>Plan A-3</b>     | Aerial photo                             |
| <b>Plan A-4</b>     | Site photos                              |

**PLANNING DEPARTMENT  
SEPTEMBER 2022**