

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/969

<u>Applicant</u>	:	Society for Abandoned Animals Limited represented by Goldrich Planners and Surveyors Limited
<u>Site</u>	:	Government Land (GL) in D.D. 114, Kei Ling, Pat Heung, Yuen Long
<u>Site Area</u>	:	About 7,900 m ²
<u>Land Status</u>	:	GL
<u>Plans</u>	:	Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11 and approved Shek Kong OZP No. S/YL-SK/9
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Temporary Animal Boarding Establishment with Ancillary Facilities for a Period of 5 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary animal boarding establishment with ancillary facilities for a period of 5 years and filling of land at the application site (the Site), which straddles areas zoned “AGR” on the Pat Heung and the Shek Kong OZPs (**Plan A-1**). According to the Notes of the OZPs, ‘Animal Boarding Establishment’ is a Column 2 use in the “AGR” zones, which requires planning permission from the Town Planning Board (the Board). Filling of land within the “AGR” zones also requires planning permission from the Board. The Site is vacant, partly vegetated and partly paved, and a section of watercourse runs within the southern part of the Site (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the development involves erection of 6 one to three-storey structures with building heights ranging from about 5m to 10m and a total floor area of about 4,460m² for kennel, ancillary veterinary consultation room/training room, adoption area, office, storeroom, and guardroom. The proposed operation hours are between 9:00 a.m. and 7:00 p.m. (except overnight animal boarding) daily including public holidays. The applicant states that the

animal boarding establishment can accommodate about 400 animals at the Site, including a maximum of 250 dogs, 120 cats, 20 rabbits, 6 turtles and 4 lambs. No more than 30 dogs and 4 lambs will be allowed to stay at the outdoor activity areas at the same time, while all animals will be kept within the enclosed animal boarding structures built with sound proofing materials, and equipped with air conditioning and mechanical ventilation systems after operation hours. No public announcement system and whistle blowing will be used at the Site. Part of the Site (about 33%) will be paved with concrete by not more than 0.1m in depth (from about + 24.4mPD to +24.5mPD) for site formation of structures and outdoor animal exercise areas. One loading/unloading space for light goods vehicle will be provided. The Site is accessible from Kam Sheung Road via Ko Sheung Road. The site layout plan and filling of land plan submitted by the applicant are shown on **Drawings A-1** and **A-2**.

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

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|-----|---|---------------|
| (a) | Application form with attachments received on 14.8.2023 | (Appendix I) |
| (b) | Further Information (FI) received on 14.9.2023* | (Appendix Ia) |
| (c) | FI received on 6.10.2023 and 12.10.2023* | (Appendix Ib) |
| (d) | FI received on 10.11.2023 [#] | (Appendix Ic) |
| (e) | FI received on 17.11.2023* | (Appendix Id) |
| (f) | FI received on 8.12.2023* | (Appendix Ie) |

** accepted and exempted from publication and recounting requirements*

[#] accepted but not exempted from publication and recounting requirements

1.4 On 13.10.2023, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application for two months each as requested by the applicant.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form with attachments and FIs at **Appendices I** to **Ie**. They can be summarised as follows:

- (a) The applicant is a registered local charitable organisation which operates an existing animal boarding establishment in Pak Sha Tsuen, Yuen Long. The applicant has participated in rescuing and rehoming abandoned animals, and conducting neutering programme to help reduce stray animals in the area. As the existing site is included in the Yuen Long South Development, the operation is affected by land resumption by the Government in that according to the land clearance programme, the existing site is expected to be resumed by the Government by the first half of 2024.

- (b) The applicant has undergone a site selection process in the territory for reprovisioning the site to continue the operation. The proposed site boundary generally follows the boundary of the vacant government site to facilitate short term tenancy application with the Lands Department for the proposed use upon obtaining planning approval. The pedestrian accesses across the watercourse from Ko Sheung Road and along the northern periphery do not form part of the application site and will remain open to the public.
- (c) The operation of the proposed use and proposed filling of land will be limited mainly in the northern portion of the Site (**Drawing A-2**). No diversion to and/or filling of the existing watercourse in the southern portion will be carried out. No structure will be erected in the southern portion along the watercourse within the Site and such area will not be paved and will be preserved as landscape area with regular horticultural maintenance and beautification for the vegetation. Among 58 trees identified within the Site, two trees at the northern portion are proposed to be felled due to direct conflict with the construction for the proposed use and low structural stability. 56 trees near the watercourse would be retained, and 19 heavy standard trees are proposed to be planted (compensation ratio of about 1:9.5) to compensate the loss of two trees. The development will not induce adverse drainage, sewerage and landscape impacts on the surrounding area.
- (d) The proposed use caters for the increasing demand for the caring of abandoned and physically impaired animals, the provision of pet adoption services, public events for the promotion of animal welfare, and the reduction of stray animals by conducting neutering programmes. The proposed veterinary consultation room within the proposed use is solely for internal use and will not provide any service to the general public. Visitors are required to make prior reservation before visiting and encouraged to get access to the Site by public transport. Loading and unloading activities will be carried out once or twice per week and no parking spaces will be provided at the Site. The proposed use will not cause adverse traffic impact on the surrounding area.

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

As the Site involves GL only, the “owner’s consent/notification” 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. 13A) are not applicable to the application.

4. Background

The Site is currently not subject to any active planning enforcement action.

5. Previous Application

There is no previous application covering the Site.

6. Similar Application

There is no similar application within the same “AGR” zones in the past 5 years.

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

7.1 The Site is:

- (a) vacant, partly vegetated and partly paved, with a section of watercourse runs within the southern part of the Site; and
- (b) accessible from Kam Sheung Road via Ko Sheung Road.

7.2 The surrounding areas are rural in character mainly intermixed with a plant nursery, grassland, cultivated agricultural land and vacant land. The village settlements of Sheung Tsuen and Wang Toi Shan Lo Uk Tsuen are located about 530m to the east and about 900m to the north of the Site respectively (**Plan A-1**). To the southwest are a watercourse and Ko Sheung Road, and to the further northwest are the Shek Kong Stabling Sidings and Emergency Rescue Siding (ERS) of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL) (**Plan A-3**).

8. Planning Intentions

8.1 The planning intentions of the “AGR” zones are primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. They are also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

8.2 According to the Explanatory Statements of the OZPs, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

9. Comments from Relevant Government Bureaux and Departments

9.1 Apart from the government bureaux as set out in paragraph 9.2 below, other 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 II and III** respectively.

9.2 The following government bureaux support the application:

Policy Aspect

9.2.1 Comments of the Secretary for Environment and Ecology (SEE):

Policy support is rendered to this application, from the policy angle of animal welfare.

9.2.2 Comments of the Secretary for Development (SDEV):

- (a) The application is to facilitate relocation of the animal boarding facilities currently operated by the applicant which is one of the Agriculture, Fisheries and Conservation Department (AFCD)'s partnering Animal Welfare Organisations in Yuen Long. The animal boarding facilities will be affected by the Yuen Long South Second Phase development (the project).
- (b) The applicant has approached AFCD and the Development Bureau in 2022 seeking assistance in identifying suitable GL for re-establishment of their animal boarding facilities elsewhere to pave way for the clearance under the project. It is noted that the application Site is one of the potential sites identified for such purpose. It is also understood that the Environment and Ecology Bureau has provided their policy support for using the Site for an animal rehome shelter under this application.
- (c) According to the concerned departments, the proposed use is not incompatible with surrounding land uses and would not create insurmountable impacts in technical terms subject to imposition of appropriate approval conditions. To facilitate smooth clearance for the project and provide operating space for the applicant to continue providing their services that are needed by the community, the application is supported from the policy perspective.

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

10.1 The application was published for public inspection. During the statutory publication periods, 177 public comments were received, including 173 objecting comments in standard letter format received from a Yuen Long District Council Member, Pat Heung Rural Committee, Indigenous Inhabitant Representatives and Resident Representative of Sheung Tsuen, Vice Chairman of Village Affairs Committee of Sheung Tsuen, Pat Heung Sheung Tsuen Committee, and villagers of Sheung Tsuen and Wang Toi Shan Lo Uk Tsuen; and four comments expressing views and concerns on the application received

from Kadoorie Farm & Botanic Garden Corporation and an individual.

- 10.2 The comments in standard letter object to the application mainly on the grounds that the proposed use would affect the access to nearby private lands; it would take up GL currently used by the Drainage Services Department (DSD); there would be on-street parking caused by the proposed use affecting the access to the ERS of the XRL; and there would be adverse drainage impacts. The remaining four public comments mainly raise concerns that large amount of GL could be taken up by the applicant without information of the applicant's identity; no information on the proposed use at the southern portion of the Site; there would be drainage and sewerage impacts; and the proposed use is not a solution to the problem of pet abandonment, as it provides convenient dumping ground for people abandoning their pets. Samples of the standard letters and the remaining form of public comments are at **Appendix IV**. A full set of public comments is deposited at the Secretariat of the Board for Members' inspection and reference.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary animal boarding establishment with ancillary facilities for a period of 5 years and filling of land at the Site zoned "AGR" on the Pat Heung and the Shek Kong OZPs (**Plan A-1**). The planning intentions of the "AGR" zones are primarily intended 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 intentions of the "AGR" zones. The Director of Agriculture, Fisheries and Conservation (DAFC) considers that the Site can be rehabilitated for agricultural activities, such as open-field cultivation, greenhouses, plant nurseries, etc., though whether there will be agricultural activities on a specific site will hinge on a lot of factors. It is noted that the current application is to facilitate relocation of an existing animal boarding establishment of rescuing and rehoming abandoned animals by a registered charitable organization affected by the Yuen Long South development. SEE supports the application from the policy angle of animal welfare. To facilitate smooth clearance for the Yuen Long South Second Phase development and provide operating space for the applicant to continue providing their services that are needed by the community, SDEV supports the application. Taking into account the planning assessments below, the proposed use on a temporary basis of five years could be tolerated.
- 11.2 Filling of land within the "AGR" zones requires planning permission as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of the Drainage Services Department (CE/MN of DSD) and the Director of Environmental Protection (DEP) have no objection to the proposed filling of land from drainage and

environmental perspectives. An approval condition requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.

- 11.3 The proposed use is not incompatible with the surrounding uses comprising plant nursery, grassland, agricultural land and vacant land. The southern portion of the Site including the watercourse (**Plan A-2**) running across will be preserved and serve as landscaping area (**Drawing A-2**) with regular horticultural maintenance and beautification for the vegetation according to the applicant. Whilst two trees at the northern portion of the Site are proposed to be felled, a total of 19 trees will be replanted along the western site boundary with a compensation ratio of about 1:9.5. Noting that the proposed development will be limited to the northern portion of the Site and the southern portion including the vegetation there will be preserved as landscaping area, the Chief Town Planner/Urban Design and Landscape of the Planning Department considers that significant adverse landscape impact arising from the proposed use is not anticipated and has no objection to the application from landscape planning perspective.
- 11.4 Relevant departments consulted, including the Commissioner for Transport, CE/MN of DSD, DEP and the Director of Fire Services, have no objection to or no adverse comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. To minimise the possible environmental nuisances generated by the development, the applicant will also be advised to follow the revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites', and the relevant Practice Note for Professional Person PN 5/93 on "Drainage Plans subject to Comment by the Environmental Protection Department" issued by DEP.
- 11.5 Regarding the public comments as detailed in paragraph 10, which object to the applicant on the grounds that the proposed use would obstruct the accesses to private lots nearby; the DSD's maintenance area; and the access to the ERS of XRL due to on-street visitor parking, the applicant indicates that the pedestrian accesses across the watercourse from Ko Sheung Road and along the northern periphery do not form part of the Site and will remain open to the public (**Plan A-2**). Visitors are required to make prior reservation before visiting the animal boarding establishment and encouraged to get access to the Site by public transport. As such, the concerns over obstruction to accesses arising from the proposed use are not anticipated. The departmental comments and planning assessments above are also relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into

account the public comments 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 22.12.2028. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.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 structures on the site from 7:00 p.m. to 9:00 a.m., as proposed by the applicant, during the planning approval period;
- (c) no public announcement system, whistle blowing, portable loudspeaker or any form of audio amplification system is allowed to be used on the site, during the planning approval period;
- (d) the submission of a run-in/out proposal at Ko Sheung Road and modification proposal of associated street furniture on Ko Sheung Road within **6** months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by 22.6.2024;
- (e) in relation to (d) above, the implementation of run-in/out proposal to/from Ko Sheung Road and modification proposal of associated street furniture on Ko Sheung Road within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport and Director of Highways or of the Town Planning Board by 22.9.2024;
- (f) 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 22.6.2024;
- (g) in relation to (f) above, the implementation of the 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 22.9.2024;
- (h) in relation to (g) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (i) 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 22.6.2024;

- (j) in relation to (i) 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 22.9.2024;
- (k) if any of the above planning condition (a), (b), (c), or (h) 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
- (l) if any of the above planning condition (d), (e), (f), (g), (i) or (j) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.
- (m) upon the 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 proposed use is not in line with the planning intentions of the "AGR" zones which are primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. They are also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

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

14. Attachments

Appendix I	Application form with attachments received on 14.8.2023
Appendix Ia	FI received on 14.9.2023
Appendix Ib	FI received on 6.10.2023 and 12.10.2023
Appendix Ic	FI received on 10.11.2023
Appendix Id	FI received on 17.11.2023
Appendix Ie	FI received on 8.12.2023
Appendix II	Government departments' general comments
Appendix III	Recommended advisory clauses
Appendix IV	Public comments
Drawing A-1	Site layout plan
Drawing A-2	Filling of land plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
DECEMBER 2023**