

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

**APPLICATION NO. A/YL-KTS/791**

|                           |  |
|---------------------------|--|
| <b><u>Applicant</u></b>   | : HK Saving Cat and Dog Association Ltd.                                   |
| <b><u>Site</u></b>        | : Government Land in D.D. 103. Kam Tin, Yuen Long                          |
| <b><u>Site Area</u></b>   | : About 1,393m <sup>2</sup>  |
| <b><u>Lease</u></b>       | : Government Land  |
| <b><u>Plan</u></b>        | : Drafted Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/14          |
| <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. According to the Notes of the OZP, ‘animal boarding establishment’ is a Column 2 use in “AGR” zone that requires planning permission from the Town Planning Board (the Board). The Site is currently fenced, vacant and covered with vegetation (**Plans A-2, A-3 and A-4**). The Site is not subject to any previous application.
- 1.2 According to the applicant, the proposed temporary animal boarding establishment is for homeless animal shelter. The proposed development involves thirty-three 1 storey structures (not exceeding 3m) with a total floor area of about 580.77 m<sup>2</sup> for 15 dog houses, 4 cat houses, dog group living area, office, storage, toilets/bath and guard houses uses. An open area for dogs to play/rest will be provided on site. The applicant advised that the proposed animal boarding establishment will accommodate 100 dogs and 50 cats at one time. The dog houses will be enclosed with sound proofing materials. 24-hours air conditioning will be provided. No dog will stay outdoor between 5 p.m. to 1p.m. No

broadcasters, amplifiers or whistle-blowing will be used at the Site. The proposed use will operate 24 hours daily including public holiday. The maximum number of persons at the Site is 6 and 13 on Mondays to Fridays, and Saturdays, Sundays and public holidays (including staff and visitors) respectively. There will be 1 car parking space and 1 taxi lay-by provided on site. The Site is accessible via a local track from Kam Tin Road. The layout plan and vehicular access plan submitted by the applicant are at **Drawings A-2 and A-3**.

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

- (a) Application form with supplementary information received on 11.6.2018 **(Appendix I)**
- (b) Further Information (FI) received on 12.7.2018 in response to departmental comments **(Appendix Ia)**  
*(accepted and exempted from publication and recounting requirements)*
- (c) Further Information (FI) received on 24.7.2018 in response to departmental comments **(Appendix Ib)**  
*(accepted and exempted from publication and recounting requirements)*
- (d) Further Information (FI) received on 27.7.2018 in response to departmental comments **(Appendix Ic)**  
*(accepted and exempted from publication and recounting requirements)*

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

The justifications put forth by the applicant in support of the application are detailed in the application form and FI in **Appendices I to Ic**. 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. They are official collaborator with the Agriculture, Fisheries and Conservation Department. In 2017, they were 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 needed to consistently turn down rescue requests for past few years.
- (b) 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 who are deemed not suitable for adaption.

- (c) Volunteer and visitor visiting the Site should make appointment to control the number of vehicles. They will access the Site by public transportation. Existing tall trees at the Site will be kept and some existing shrub will be re-plant. It is anticipated that there will not be adverse impact on the area.

**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 the subject of any active enforcement cases and there is currently no enforcement action against it.

**5. Previous Application**

There is no previous application at the Site.

**6. Similar Application**

There is no similar application within the same “AGR” zone. An application No. A/YL-KTS/790 for proposed temporary animal boarding establishment located at the southwest of the Site (Plan A-1) is scheduled for consideration by the Committee at this meeting.

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

7.1 The Site is:

- (a) currently covered with vegetation, vacant and fenced; and
- (b) accessible from Kam Tin Road via a local track.

7.2 The surrounding areas are rural in character surrounded by vacant/unused land, residential structures/dwellings, parking of vehicles and open storage yards (**Plan A-2**):

- (a) to its immediate west across the local track are some residential structures/dwellings and open storage/storage yards with valid planning permission. To its north are some vacant/unused land;
- (b) to its east is vacant/unused land and to its further east are some residential structures/dwellings; and
- (c) to its south is the Au Tau Water Treatment Plant.

## **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 The following Government departments have been consulted and their views on the application are summarized as follows:

### **Land Administration**

- 9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site is located on unleased Government Land (GL)
- (b) No permission is given for occupation of GL (about 1,393 m<sup>2</sup> subject to verification) included in the Site. Any occupation of GL without Government’s prior approval is not allowed.
- (c) The Site is accessible to Kam Tin Road via GL. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (e) Should planning approval be given to the application, the applicant has to apply for formal approval prior to the actual occupation of the GL. Such application (s) will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to

such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

### **Traffic**

#### 9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, an approval condition stating that no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by TD. The land status of the local access road should be checked with the Lands Department. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) His department does not and will not maintain any access connecting the Site and Kam Tin Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

### **Environment**

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

- (a) According to the applicant, the proposed use will operate round the clock. The animals will be kept inside the proposed dog houses between 1700 and 1300 hours. The proposed dog houses will be enclosed by soundproofing materials with provision of 24-hour mechanical ventilation and air-conditioning (MVAC) system. Public announcement system and whistle blowing will not be allowed at the Site.
- (b) The applicant is advised to properly design and maintain the facilities with a view to minimize any potential environmental nuisance, e.g. the MVAC system should be located away from adjacent sensitive receivers and the proposed structures for

animal boarding establishment should be enclosed with proper soundproofing materials. The applicant is also advised to follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (the COP) to minimize any potential environmental nuisance.

- (c) Moreover, effluent discharges from the proposed use are subject to control under the Water Pollution Control Ordinance (WPCO). A discharge licence under the WPCO shall be obtained before a new discharge is commenced. If septic tank and soakaway system is proposed, its design and construction should follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department”.
- (d) In addition, the Site falls within the collection zone of Au Tau Water Treatment Works which is a Potentially Hazardous Installation. Based on the information provided, he has no objection to the application from chlorine risk point of view.

### **Landscape**

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

- (a) He has some reservation to the application from landscape planning point of view.
- (b) The landscape quality of the surrounding area is generally not high and composed of open storages and workshops with cluster of tree groups. The proposed use is considered not incompatible with the surrounding landscape context.
- (c) According to the site visit conducted on 27.6.2018, the Site is currently vacant densely covered by existing trees. Most of the trees are *Leucaena leucocephala* (銀合歡) and the rest are native tree species. According to the proposed layout plan, all the existing trees are in conflict with the proposed layout and have to be removed. Given *Leucaena leucocephala* is an invasive, exotic small tree which grows vigorously to prevent natural succession of native species and the native tree species within the Site are easily found in local market. He has no objection to the site clearance from landscape planning perspective. However, the applicant did not provide any landscape compensation to mitigate the loss of landscape resources on site. Significant adverse landscape impact due to the proposed use is expected.

- (d) Should the application be approved, the approval condition requiring the submission and implementation of landscape proposal is recommended in the planning permission.

### **Agriculture**

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

- (a) The Site is zoned as “AGR”. From agriculture point of view, it is preferred that the Site be preserved for agricultural uses.
- (b) Carrying on a business of providing food and accommodation for animals in return for a fee or other money consideration requires a license from his department in accordance with the Public Health (Animals) (Boarding Establishment) Regulations Cap. 1391. His department has not received any application for Boarding Establishment License from the applicant as at 28.6.2018.
- (c) However, it is understood that the proposed use would be shelter for stray animals rather than a “Boarding Establishment” regulated under Cap.1391. The setting up and running of a shelter for stray animals does not require a licence or any approval from his department. Having said that, the conditions in which animals are kept must meet the requirements of the Prevention of Cruelty to Animals Ordinance (Cap.169) and its subsidiary regulations.
- (d) In addition, the rehoming of animals in return for an adoption or rehoming fee may require a licence or exemption from his department in accordance with the Public Health (Animals and Birds) (Trading and Breeding) Regulations, Cap. 139B. The applicant has been granted an Exemption from Holding an Animal Trader Licence under regulation 5A(1) of the above legislation. The exemption was issued on 11.5.2017 and is still valid as at 28.6.2018.
- (e) Housing for animals will required, amongst other things, provision of electricity supply, ample fresh water and proper treatment/disposal of sewage will be generated.
- (f) The applicant is one of his department’s animal rehoming partners.

**Drainage**

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

- (a) He has no objection in-principle to the development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development should be included in the planning permission.

**Fire Safety**

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to the satisfaction of his department.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

**Building Matters**

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

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.



- (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (c) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations B(P)R respectively.
- (d) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

### **Environmental Hygiene**

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

- (a) No Food and Environmental Hygiene Department (FEHD)'s facilities shall be affected and such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding.
- (b) For any waste generated from the commercial / trading activities, the applicant should arrange disposal properly at her own expenses.

### **Water Supply**

#### 9.1.11 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD)

- (a) He has no objection to the application.
- (b) Existing water mains with various sizes will be affected (**Plan A-2**). A Waterworks Reserve within 3 metres from the centerline of the water mains shall be provided to WSD.
- (c) No structure shall be built or materials stored within this Waterworks Reserve. Free access shall be made available at all times for staff of the Director of Water Supplies or their contractor to carry out construction, inspection, operation, maintenance and repair works.

- (d) No trees or shrubs with penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water main.
- (e) Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.
- (f) The Site falls within the consultation zone of Au Tau Water Treatment Works, which is a Potentially Hazardous Installations.

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

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

- (a) He has no particular comment on the application and his office has not received any comments from locals upon close of consultation.

9.2 The following Government department has no objection/no comment on the application:

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (b) Director of Electrical and Mechanical Services (DEMS); and
- (c) Commissioner of Police (C of P).

## **10. Public Comments Received During Statutory Publication Period**

On 19.6.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 10.7.2018, thirteen public comments were received from Kam Tin Rural Committee and members of the public (**Appendix III-1 to III-13**) (three comments **Appendix III-9, 10 and 11** with 18, 27 and 25 signatures respectively). All commenters object to the application mainly on the grounds that the proposed development will generate adverse traffic and environmental impacts, in particular hygiene, noise, waste and odour problems as the Site is in the vicinity of some residential structures/dwellings; not comply with the planning intention; and attract people to dump animals at the Site.

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

11.1 The application is for proposed temporary animal boarding establishment. The Site falls within an area zoned "AGR" which is 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 in line with the planning intention of the "AGR" zone and DAFC comments that the Site is preferred to be

preserved for agricultural uses. Nevertheless, it is considered approval of the application on temporary basis for a period of 5 years would not jeopardize the long-term planning intention of the area.

- 11.2 The proposed development comprises some 1-storey structures (not exceeding 3m high) with a total floor area of 580.77m<sup>2</sup> is considered not incompatible with the surrounding land uses which is rural in character predominated by residential structures/dwellings, parking of vehicles, open storage yards, Au Tau Water Treatment Works and vacant/unused land. Although there are residential structures/dwellings in the vicinity (**Plan A-2**), the applicant stated that the dog houses will be enclosed and provided with 24-hours air conditioning and no dogs will stay outdoor between 5 p.m. to 1 p.m. In this regards, DEP has no adverse comment on the application.
- 11.3 Relevant departments consulted, except DAFC and CTP/UD&L of PlanD, have no adverse comment on the application. CTP/UD&L of PlanD has some reservation on the application as existing trees are in conflict with the proposed layout. However, the applicant did not provide any landscape compensation to mitigate the loss of landscape resources on site. Significant adverse landscape impact due to the proposed use is expected. In this regard, the applicant stated that the existing tall trees should be kept and some shrubs will be re-plant. To address CTP/UD&L of PlanD's comment, approval condition on submission and implementation of landscape proposal are recommended in approval conditions (i) and (j) in paragraph 12.2 below. To minimise the possible environmental nuisance, approval conditions on restricting the outdoor animal activities period and prohibiting public announcement system, portable loudspeaker, audio amplification system and whistle blowing are recommended in paragraph 12.2 (a) to (b) below. Any non-compliance with the approval condition will result in revocation of the planning permission and unauthorized development on-site will be subject to enforcement action by the Planning Authority. The applicant will also be advised to adopt the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' in order to alleviate any potential impact. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions (c) to (h) in paragraph 12.2 below.
- 11.4 Thirteen public comments objecting the application were received during the statutory publication period for the reasons as set out in paragraph 10 above. In this regard, relevant departments including C for T, DEP and DFEH have no adverse comments on the application. The planning considerations and assessments above are also relevant.

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

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments in paragraph 10 above, the Planning Department considers that

the proposed temporary animal boarding establishment could be tolerated for a period of 5 years.

- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 5 years, until 3.8.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) all animals shall be kept inside the enclosed structures from 5:00 p.m. to 1:00 p.m., as proposed by the applicant, at all times during the planning approval period;
- (b) no public announcement system, portable loudspeaker, or any form of amplification system, and whistle blowing, as proposed by the applicant, is allowed to be used on the Site during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) 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 3.2.2019;
- (e) in relation to (d) above, the implementation of 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 3.5.2019;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 3.2.2019;
- (h) in relation to (g) above, the implementation of 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 3.5.2019;
- (i) the submission of 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 3.2.2019;
- (j) in relation to (i) above, the implementation of 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 3.5.2019;

- (k) if any of the above planning conditions (a), (b), (c) or (f) is not complied with during the planning approval period, the approval hereby given shall cease to have effect immediately and shall be revoked without further notice;
- (l) if any of the above planning conditions (d), (e), (g), (h), (i) or (j) 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
- (m) upon the expiry of the planning permission, the reinstatement of the application 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 attached at **Appendix III**.

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

The 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. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong justification has been given in the submission for a departure from the planning intention, even on 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**

|                               |   |
|-------------------------------|---|
| <b>Appendix I</b>             | Application Form with plans received on 11.6.2018               |
| <b>Appendix Ia</b>            | Supplementary Information received on 12.7.2018                 |
| <b>Appendix Ib</b>            | Further Information received on 24.7.2018                       |
| <b>Appendix Ic</b>            | Further Information received on 27.7.2018                       |
| <b>Appendix II-1 to II-13</b> | Public comment received during the statutory publication period |
| <b>Appendix III</b>           | Advisory Clauses  |
| <b>Drawing A-1</b>            | Lot Index Plan  |
| <b>Drawing A-2</b>            | Layout Plan   |
| <b>Drawing A-3</b>            | Vehicular Access 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  
AUGUST 2018**