

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

**APPLICATION NO. A/NE-TKL/701**

- Applicant** : Foresight Development Limited represented by R-riches Property Consultants Limited
- Site** : Lot 137 in D.D. 79, Ping Che, New Territories
- Site Area** : About 789 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** : Proposed Temporary Animal Boarding Establishment for a Period of 5 Years and Filling of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a proposed temporary animal boarding establishment for a period of 5 years and filling of land with concrete of not more than 0.2 m in depth (**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 within the “AGR” zone requiring planning permission from the Board. Filling of land for the proposed use in the “AGR” zone also requires planning permission from the Board. The Site is currently vacant and mainly covered with grass.
- 1.2 According to the applicant, the temporary development comprises two 2-storey structures of about 7 m in height with a total floor area of about 432 m<sup>2</sup> for animal boarding establishment, storage and site office uses (**Drawing A-1**). 52% of the Site (i.e. 413 m<sup>2</sup>) will be filled with concrete of not more than 0.2 m in depth for site formation works of the proposed temporary structures and for parking and circulation purposes (**Drawing A-2**). Not more than 40 dogs will be accommodated at the Site. All dogs will be kept indoor from 6:00 p.m. to 9:00 a.m. Advanced booking is required for visitors to access to the Site. 3 private car parking spaces and 1 loading/unloading space for light goods vehicles are provided at the Site. The Site is accessible from Ping Yuen Road via a local track (**Plan A-2**). Staff will be deployed at the entrance for traffic management. The operation hours are from 9:00 a.m. to 6:00 p.m. daily, including public holidays. Relevant measures, including the erection of enclosed structures equipped with soundproofing materials,

mechanical ventilation and air-conditioning systems, etc., will be implemented in respect of the potential environmental and noise impacts.

- 1.3 No old and valuable tree species are identified at the Site. Among the 11 existing trees, 9 will be felled due to the proposed site formation works, whilst 2 at the northern boundary of the Site will be preserved. A total of 11 new trees will be planted at the periphery of the Site (**Drawing A-3**). The proposed layout plan, paved area plan and landscape proposal submitted by the applicant are shown in **Drawings A-1 to A-3**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- |     |                                                        |                        |
|-----|--------------------------------------------------------|------------------------|
| (a) | Application Form with Attachments received on 4.7.2022 | ( <b>Appendix I</b> )  |
| (b) | Further Information (FI) received on 20.7.2022         | ( <b>Appendix Ia</b> ) |
| (c) | FI received on 10.8.2022                               | ( <b>Appendix Ib</b> ) |

## **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 submissions at **Appendices I to Ib** and summarised below:

- (a) the proposed development is temporary in nature and will not frustrate the long-term planning intention of the “AGR” zone;
- (b) the layout and scale of the proposed development are not incompatible with the surrounding environment;
- (c) no significant adverse landscape, drainage and environmental impacts on the surrounding areas are anticipated;
- (d) the applicant has submitted traffic information, which indicates that adverse traffic impact on the surrounding areas is not anticipated;
- (e) the applicant undertakes to provide necessary measures including enclosed structures, air-conditioning system, no public announcement system and compliance with relevant guidelines including the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (CoP) and the Professional Persons Environmental Consultative Committee Practice Notes (ProPECC PN) No. 5/93, to minimise environmental nuisance to nearby residents; and
- (f) the applicant undertakes to reinstate the Site into an amenity area upon expiry of the planning permission.

## **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 taking reasonable steps to give notification to the owner including posting site notices and sending notices to the Ta Kwu Ling District Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

#### **4. Background**

The Site is not subject to active enforcement action.

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

- 5.1 The Site is part of the subject of a previous application (No. A/NE-TKL/163) for temporary open storage of sundry and wrecked vehicles/parts for a period of 3 years rejected by the Committee in 2001, which is not relevant to the current application.
- 5.2 Details of the previous application are summarised at **Appendix II** and the location is shown on **Plan A-1**.

#### **6. Similar Applications**

- 6.1 There are two similar applications (No. A/NE-TKL/653 & 685) for temporary animal boarding establishment within the “AGR” zone in the vicinity of the Site. Both applications were approved by the Committee on 22.1.2021 and 28.1.2022 respectively mainly on consideration that the proposed development would not jeopardise the long-term planning intention of “AGR” zone; not incompatible with the surrounding areas; and concerns of relevant government departments could be addressed through the implementation of approval conditions.
- 6.2 Details of the similar applications are summarised at **Appendix II** and the locations are shown on **Plan A-1**.

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

- 7.1 The Site is:
  - (a) currently vacant and covered with grass and trees; and
  - (b) accessible from Ping Yuen Road via a local track.
- 7.2 The surrounding areas have the following characteristics:
  - (a) predominantly rural landscape character surrounded by active/fallow agricultural land, unused land and temporary domestic structures; and
  - (b) to the further southeast of the Site are two open storage yards.

#### **8. Planning Intention**

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

- 8.2 According to the Explanatory Statement of the OZP, permission from the Board is required for filling of land within the “AGR” zone, as the activity may cause adverse drainage and environmental impacts on the adjacent areas.

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

- 9.1 Apart from government departments’ comments as set out in paragraphs 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 at **Appendices III** and **IV** respectively.

- 9.2 The following government department has objection to/reservation on the application:

### **District Officer’s Comments**

- 9.2.1 District Officer (North), Home Affairs Department (DO(N), HAD) has consulted the locals on the application with the following comments:

- The incumbent North District Council member of the subject constituency, the First Vice-Chairman of the Ta Kwu Ling District Rural Committee, and the Indigenous Inhabitant Representatives (IIRs) and the Resident Representative (RR) of Ping Yeung raise objection on environmental and traffic grounds; and nuisance concerns to nearby villagers. The Chairman of Fung Shui Area Committee, and the IIRs and the RRs of Lei Uk, Ping Che, Tong Fong and Tai Po Tin have no comment.

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

The application and FI were published for public inspection on 5.7.2022 and 29.7.2022 respectively. During the statutory public inspection periods, a total of three public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Two comments with objecting views are raised by the same individual on consideration that there is no previous approval; no details regarding the number of animals to be accommodated; no provision of arrangements for drainage and waste disposal; and a ‘development first, application later’ development is not acceptable.

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

- 11.1 The application is for a proposed temporary animal boarding establishment for a period of 5 years and filling of land by concrete of about 0.2 m in depth at the Site zoned “AGR” on the OZP (**Plan A-1**). The proposed use 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. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC states that the Site possesses potential for agricultural rehabilitation, though whether there will be agricultural activities would hinge on a lot of factors. Nonetheless, approval of the application on a temporary basis would not frustrate the long-term planning intention of the “AGR” zone. Filling of land within the “AGR” zone requires planning

permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, CE/MN of DSD and DEP have no objection from drainage and environmental perspectives.

- 11.2 The Site is situated in an area of rural fringe landscape character comprising vegetated areas, agricultural land, tree clusters, village houses, temporary domestic structures and some open storage yards. The proposed use is considered not incompatible with the surrounding environment. According to the applicant, there is no old and valuable tree within the Site. Among the 11 existing trees, 9 will be felled due to the proposed site formation works, whilst 2 at the northern boundary of the Site will be preserved. A total of 11 new trees are proposed to be planted at the periphery of the Site. Given that significant adverse impact on existing landscape resources is not anticipated, CTP/UD&L of PlanD has no objection on the application from landscape planning perspective.
- 11.3 C for T has no objection to the application and considers that the traffic impact induced by the proposed development is tolerable. DEP has no objection to the application subject to relevant approval conditions being imposed and advises that the applicant should follow the latest CoP to minimise any potential environmental impacts. Other relevant government departments consulted, including CE/MN of DSD, D of FS and CE/E of WSD, have no objection to or no adverse comment on the application.
- 11.4 There are two similar applications (No. A/NE-TKL/653 & 685) for temporary animal boarding establishment approved in 2021 and 2022 respectively mainly on considerations that the proposed development would not jeopardise the long-term planning intention of “AGR” zone; not incompatible with the surrounding areas; and concerns of relevant government departments could be addressed through the implementation of approval conditions. The planning circumstances of the current application are similar to the approved applications.
- 11.5 Regarding the local comments conveyed by DO(N), HAD and adverse public comments as detailed in paragraphs 9.2.1 and 10 above respectively, the government departments’ comments and the planning assessments above are relevant. Concerning the number of animals to be accommodated at the Site, there will be not more than 40 dogs to be accommodated at the Site as mentioned in the submission.

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

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the local comments conveyed by DO(N), HAD and public comments mentioned in paragraphs 9.2.1 and 10 respectively, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 5 years until 9.9.2027. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) all dogs shall be kept inside the enclosed structures on the Site between 6:00 p.m. and 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 at any time during the planning approval period;
- (c) the submission of a drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 9.3.2023;
- (d) in relation to (c) above, the provision of drainage facilities within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 9.6.2023;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 9.3.2023;
- (g) in relation to (f) 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 9.6.2023;
- (h) if any of the above planning conditions (a), (b) or (e) 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;
- (i) if any of the above planning conditions (c), (d), (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; and
- (j) 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 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 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 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 27.6.2022
<b>Appendix Ia</b>	FI received on 20.7.2022
<b>Appendix Ib</b>	FI received on 12.8.2022
<b>Appendix II</b>	Previous and similar 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>	Proposed layout plan
<b>Drawing A-2</b>	Proposed paved area plan
<b>Drawing A-3</b>	Landscape proposal
<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 &amp; A-4b</b>	Site photos

**PLANNING DEPARTMENT  
SEPTEMBER 2022**