

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/1009

<u>Applicant</u>	:	Foresight Development Limited represented by PlanPlus Consultancy Limited
<u>Site</u>	:	Lot 1185 S.E RP in D.D. 106, Kam Tin South, Yuen Long
<u>Site Area</u>	:	About 1,513m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Temporary Animal Boarding Establishment for a Period of Five Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary animal boarding establishment for a period of five years and associated filling of land at the application site (the Site) zoned “AGR” on the OZP (**Plan A-1**). According to the Notes of the OZP for “AGR” zone, both ‘Animal Boarding Establishment’, which is a Column 2 use, and filling of land require planning permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Kam Shui South Road via a local track (**Plans A-2 and A-3**). According to the applicant, the applied use involves nine single-storey structures with height of not more than 5.5m and a total floor area of about 288.92m² for animal boarding facility, site office, resting room, storage and toilet uses. The applicant also applies for regularisation of filling of land for about 66% of the Site (about 1,001m²) with concrete for not more than 0.2m in depth (from +13.5mPD to +13.7mPD) for site formation of structures and circulation space. Three parking spaces for light goods vehicles (LGVs) (6m x 3.5m) are provided within the Site. The operation hours are from 9:00 a.m. to 7:00 p.m. daily. The animal boarding establishment will accommodate no more than 15 cats/dogs. All animal activities will be kept inside the enclosed structures built with soundproof materials and air conditioning systems. No public announcement system, whistle blowing or any form of audio amplification system will be used and no quarantine

station or lairage for animals will be provided at the Site. The site layout plan and land filling 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/919 submitted by a different applicant for the same use covering the same site with slightly different layout and development parameters, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 1.6.2022. The planning permission was subsequently revoked on 1.12.2023 due to non-compliance with time-limited approval conditions (details at paragraph 5 below). A comparison of the major development parameters of the current application and the previously approved application is set out below:

Major Development Parameters	Previously Approved Application No. A/YL-KTS/919 (a)	Current Application No. A/YL-KTS/1009 (b)	Difference (b)-(a)
Applied Use	Temporary Animal Boarding Establishment for a Period of 5 Years and Filling of Land		---
Site Area	About 1,513 m ²		---
No. and Height of Structures	9 • animal boarding facility, site office, resting room, storage and toilet (5.55m, 1 storey)	9 • animal boarding facility, site office, resting room, storage and toilet (5.55m, 1 storey)	---
Total Floor Area of Structures	About 387.52m ²	About 288.92m ²	- 98.6m ² (-25.4%)
No. of Parking and Loading/Unloading (L/UL) Space(s)	3 (1 parking for LGV and 2 L/UL spaces) (7m x 3.5m each)	3 (parking for LGVs) (6m x 3.5m each)	Addition of 2 parking spaces for LGV and deletion of L/UL spaces

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

- (a) Application Form with attachments received on 16.7.2024 **(Appendix I)**
- (b) Further Information (FI) received on 23.8.2024* **(Appendix Ia)**
- (c) FI received on 28.10.2024* **(Appendix Ib)**
- (d) FI received on 30.10.2024* **(Appendix Ic)**
*accepted and exempted from publication and recounting requirements

- 1.5 On 8.9.2024, the Committee agreed to defer making a decision on the application for two months 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 and FIs at **Appendices I to Ic**. They can be summarised as follows:

- (a) The applied use is temporary in nature and will not jeopardise the long-term planning intention of the “AGR” zone. It is not incompatible with the surrounding environment.
- (b) The filling of land of 0.2m in depth is for site formation and vehicle manoeuvring purposes to stabilise soil ground and prevent erosion from surface run-off. The extent of land filling has been kept to the minimum for meeting the operational need of the applied animal boarding establishment.
- (c) The applied use is technically feasible and the applicant will strictly follow the relevant guidelines and practice notes so as to minimise adverse impacts and environmental nuisance to the surrounding areas.
- (d) In support of the current application, the applicant has submitted drainage, fire service installations (FSIs) and run-in/out proposals.
- (e) The Site is the subject of a previous application No. A/YL-KTS/919 for the same use that had been approved by the Board. Eight similar applications for ‘Animal Boarding Establishment’ have been approved by the Board in the “AGR” zone in the vicinity of the Site.

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

The applicant is not the “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” Requirement under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by posting notice at the Site and sending notice to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

- 4.1 The Site is currently not subject to any active planning enforcement action.
- 4.2 The Site is covered by a valid Boarding Establishment License (BEL) issued under the Public Health (Animals) (Boarding Establishment) Regulations (Cap. 139I) until 15.1.2025.

5. **Previous Application**

The Site is the subject of a previous application (No. A/YL-KTS/919) submitted by a different applicant for the same use covering the same site with slightly different layout and development parameters as the current application. The application was approved

with conditions for a period of five years by the Committee on 1.6.2022 mainly on the considerations that the temporary approval would not frustrate the long-term planning intention of the “AGR” zone; the proposed use was considered not incompatible with the surrounding land uses; and relevant government departments consulted generally had no adverse comment on the application or their technical concerns could be addressed by appropriate approval conditions. The planning permission was subsequently revoked on 1.12.2023 due to non-compliance with time-limited approval conditions. Details of the previous application are summarised in **Appendix II** and the location is shown on **Plan A-1**.

6. Similar Application

There is no similar application within the same “AGR” zone of the OZP in the past five years.

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

7.1 The Site is:

- (a) accessible from Kam Shui South Road via a local track; and
- (b) currently occupied by the applied use without valid planning permission.

7.2 The surrounding areas comprise predominantly open storage/storage yards, warehouses, scattered residential structures, active agricultural land, vacant land, gardening area and grassland.

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 for “AGR” zone, 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 Departments

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.

10. Public Comment Received During Statutory Publication Period

On 23.7.2024, the application was published for public inspection. During the statutory publication period, one public comment was received from an individual raising concerns that the previous application was revoked due to non-compliance with approval conditions and questioning if the Site was covered by a valid BEL (**Appendix V**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary animal boarding establishment for a period of five years and associated filling of land at the Site zoned “AGR” (**Plan A-1**). Whilst the applied use is not entirely in line with the planning intention of the “AGR” zone, the Director of Agriculture, Fisheries and Conservation (DAFC) has no adverse comment on the application from agricultural and nature conservation perspectives and confirms that the Site is covered by a valid BEL. In view of the above and taking into account the planning assessment below, the applied use on a temporary basis for a period of five years could be tolerated.
- 11.2 The applicant also applies for regularisation of filling of land for about 66% of the Site (about 1,001m²) with concrete for not more than 0.2m in depth. Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) and Director of Environmental Protection has no objection to the application. An approval condition requiring the reinstatement of the Site to an amenity area is recommended in paragraph 12.2 below should the Committee decide to approve the application.
- 11.3 The applied use is considered not incompatible with the surrounding areas, which comprise predominantly open storage/storage yards, warehouse, scattered residential structures, cultivated land, vacant land, gardening and grassland (**Plan A-2**). The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) has no objection to the application from landscape planning perspective and considers that significant adverse landscape impact arising from the applied use is not anticipated.
- 11.4 In support of the current application, the applicant has submitted drainage, run-in/out and FSIs proposals which are considered acceptable by CE/MN of DSD, Commissioner for Transport and Director of Fire Services respectively, and they have no objection to the application. Other relevant government departments consulted 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. The applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise any potential environmental nuisance caused by the applied use on the surrounding areas.
- 11.5 The Site is the subject of a previously approved application No. A/YL-KTS/919 for the same use with slightly different layout and development parameters

submitted by a different applicant as mentioned in paragraph 5 above. Approving the current application is in line with the Committee's previous decision.

- 11.6 Regarding the public comment received as summarised in paragraph 10 above, the departmental comments and planning considerations 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 comment mentioned in paragraph 10, PlanD 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 five years until 20.12.2029. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the existing drainage facilities on the site shall be maintained at all times during the planning approval period;
- (b) the submission of a record of the existing drainage facilities on the site within **3** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.3.2025;
- (c) the implementation of the accepted 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 20.9.2025;
- (d) if the above planning condition (a) 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;
- (e) if any of the above planning condition (b) or (c) 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
- (f) 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 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 applied use with filling of land 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. There is no strong planning justification 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 16.7.2024
Appendix Ia	FI received on 23.8.2024
Appendix Ib	FI received on 28.10.2024
Appendix Ic	FI received on 30.10.2024
Appendix II	Previous application
Appendix III	Government departments’ general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comment
Drawing A-1	Site layout plan
Drawing A-2	Land filling plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
DECEMBER 2024**