

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-PK/135

- Applicant** : Hong Kong Canine Working and Agility Club Ltd. represented by Chief Force Limited
- Site** : Lots 3252, 3262 (Part), 3263, 3264, 3265 S.A (Part) and 3265 S.B (Part) in D.D. 91 and adjoining Government Land, On Po Tsuen, Sheung Shui, New Territories
- Site Area** : 5,688 m² (about) (including about 194 m² of Government land)
- Land Status** : (i) Block Government Lease (demised for agriculture use)
(ii) Government Land
- Plan** : Approved Ping Kong Outline Zoning Plan (OZP) No. S/NE-PK/11
- Zoning** : "Recreation" ("REC")
- Application** : Renewal of Planning Approval for Temporary Animal Boarding Establishment and Ancillary Facilities for a Period of 3 Years until 12.8.2022

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to continue using the application site (the Site) for temporary animal boarding establishment and ancillary facilities for a further period of three years until 12.8.2022 (**Plan A-1**). The Site falls within an area zoned "REC" on the approved Ping Kong Outline Zoning Plan (OZP) No. S/NE-PK/11. According to the Notes for the "REC" zone of the OZP, 'Animal Boarding Establishment' is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with valid planning permission until 12.8.2019.
- 1.2 According to the applicant, the temporary animal boarding establishment under application is for dogs only. There are ten structures, with a total floor area of about 1,179m² and height ranging from 2m to 6m or 1 to 2 storeys, within the Site for dog kennels, dog exercise, shading, staff restrooms, temporary toilet and storeroom purposes. Three pools (covering a total area of about 327m²) for swimming of the dogs are also provided. The kennels can accommodate a maximum of 24 dogs at one time in 18 kennel rooms. A total of 20 vehicle parking spaces for private car / light goods vehicle are provided. The Site is accessible via a local track leading to Fan Kam Road. The operation hours of the temporary animal boarding establishment are between 10:00a.m.

and 6:00p.m. daily. The site layout, vehicular access plan, drainage proposal and landscape proposal are at **Drawings A-1 to A-4** respectively.

- 1.3 The Site is the subject of a previous application No. A/NE-PK/80 submitted by the same applicant. That application was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 12.8.2016 for a period of three years up to 12.8.2019. The development scheme submitted under the current renewal application is same as the previous application No. A/NE-PK/80 in terms of the applied use, site layout and development parameters. All the approval conditions have been complied with.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with attachments received on 3.5.2019 (Appendix I)
 - (b) Supplementary information received on 8.5.2019 (Appendix Ia)
 - (c) Supplementary information received on 8.5.2019 (Appendix Ib)
 - (d) Further information received on 31.5.2019 (Appendix Ic)
 - (e) Further information received on 5.6.2019 (Appendix Id)
 - (f) Further information received on 14.6.2019 (Appendix Ie)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the attachment (**Appendix I**) and the submissions listed above. They can be summarized as follows:

- (a) the temporary animal boarding establishment under application is a Column 2 use under the "REC" zone. Approval of the application on a temporary basis for a period of three years would not affect the long-term planning intention of the area;
- (b) the applicant has obtained the boarding establishment licence under the Public Health (Animals)(Boarding Establishment) Regulations, Cap 139I issued by the Director of Agriculture, Fisheries and Conservation (DAFC). The applicant undertakes to comply with all the licensing requirements and the approval conditions to be stipulated by the Board should the application be approved;
- (c) the dogs would be kept at a location away from the nearby residents (i.e. the eastern part of the Site) as far as possible, and the kennels are made by acoustic materials and installed with exhaust fans to facilitate air ventilation. In addition, the dogs would be trained to minimise any potential noise nuisance;
- (d) the dog wastes are discharged to the septic tank within the Site which would be cleaned regularly. Landscape and drainage proposals have also been implemented. The temporary animal boarding establishment is not expected to cause any adverse environmental impacts or nuisances to the surrounding areas;
- (e) fire services installations including ten fire extinguishers, two emergency lightings and one exit sign have been provided and will be maintained by the applicant in accordance with the requirements of Fire Services Department; and
- (f) only 2-3 car trips will be generated by the applied use daily. There will be adequate car parking spaces and area for vehicle manoeuvring within the Site. As the Site is served

by an existing local track, there is no need to build a new access road, causing adverse impact on the surrounding areas.

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” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the Sheung Shui District Rural Committee (SSDRC). For Government land within the Site, the TPB PG-No.31A is not applicable to the application. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

4.1 The Town Planning Board Guidelines No. 34B (TPB-PG No. 34B) on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ are relevant to this application. The relevant assessment criteria are summarized as follows:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
- (d) whether the approval period sought is reasonable; and
- (e) any other relevant considerations.

4.2 Under normal circumstances, the approval period for renewal application should not be longer than the original validity period of the temporary approval. In general, the Board is unlikely to grant an approval period exceeding three years unless there are strong justifications and the period is allowed for under the relevant statutory plans. Depending on the circumstances of each case, the Board could determine the appropriate approval period, which may be shorter than the time under request.

5. Previous Application

5.1 The Site is the subject of a previous application (No. A/NE-PK/80) submitted by the same applicant for the same use under the current application. The application was approved with conditions by the Committee on 12.8.2016 for a period of three years mainly on the considerations that the application on the temporary basis would not jeopardize the long-term planning intention of the “REC” zone; the development was

not incompatible with the surrounding environment; and would unlikely cause adverse environmental and traffic impacts. All the approval conditions have been complied with and the planning permission is valid until 12.8.2019. Details of the previous application are summarised at **Appendix II** and the location is shown on **Plan A-1**.

5.2 The scheme under the current renewal application is same as the previously approved application in term of the applied use, site layout and development parameters.

6. Similar Application

There is no similar application for 'animal boarding establishment' use within the "REC" zone in the vicinity of the Site in Ping Kong area.

7. The Site and Its Surrounding Areas (Plans A-1 and A-2 and aerial photo on Plan A-3 and site photos on Plans A-4a to 4c)

7.1 The Site is:

- (a) formed, paved and currently occupied by an animal boarding establishment with associated facilities including shades and dog swimming pools; and
- (b) accessible from Fan Kam Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) generally rural in character surrounded by active/fallow agricultural land, scattered temporary domestic structures and vacant land to the north, east and south of the Site;
- (b) a watercourse is running along the eastern boundary of the Site, and to the further southeast is a temporary structure used as car repairing workshop;
- (c) The Hong Kong Golf Club (Fanling) is located to the northwest of the Site (**Plan A-2**); and
- (d) Tai Lung Experimental Farm is located to further south of the Site (**Plan A-1**).

8. Planning Intention

The planning intention of "REC" zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of recreational developments may be permitted subject to planning permission.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises private lots and adjoining Government land. The lots are Old Schedule lots held under the Block Government Lease (demised for agriculture use) without any guarantee of right of vehicular access. The applicant should make its own arrangement for acquiring access. The Government shall accept no responsibility in such arrangement and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the applied use;
- (b) the existing structures on the application lots were erected without approval from his office and are not acceptable under the Lease concerned. His office reserves the right to take lease enforcement actions against them;
- (c) the Government land adjoining to the application lots are fenced off and occupied by the applicant without approval from his office. His office reserves the right to take necessary land control actions against the irregularities; and
- (d) the applicant has submitted applications for Short Term Waiver (STW) and Short Term Tenancy (STT) for the previous approval scheme, which are still being processed by his office. If the planning application is approved, his office will continue to process the STW/STT applications. The applications for STW/STT will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW/STT are approved, their commencement date would be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by his office.

Nature Conservation and Licensing

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

- (a) the Site is largely paved and disturbed, and a similar use had been approved by the Board in 2016. In this connection, he has no adverse comment on the application from the nature conservation point of view;
- (b) nevertheless, he notes a channelized watercourse adjacent to the Site. Good site practice should be implemented in order not to pollute the watercourse nearby; and
- (c) a valid Boarding Establishment Licence is being held under the address (Lot 3265 S.A. in D.D. 91, No. 52 On Po Village, Sheung Shui, New Territories) in this application. The licence will expire on 1.9.2019. The applicant shall obtain a new Boarding Establishment Licence from his department before the current one expires in order to continue his business. The applicant should also be reminded that the development falls under Public Health (Animals) (Boarding Establishment) Regulations (Cap. 139I) and

must thus fulfil the criteria listed in the Regulations. The dogs kept by the applicant should also be properly licensed in accordance with the Rabies Ordinance (Cap. 421), and the applicant is reminded to observe the Prevention of Cruelty to Animals Ordinance (Cap. 169) at all times.

Environment

9.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) he has no comment on the application. According to the application and further information dated 14.6.2019, the Site is the subject of a previous planning application No. A/NE-PK/80 for the same use which was approved by the Committee on 12.8.2016. The development scheme submitted under the current application including the layout, site area, number of parking space are generally tally with those under the previous application.
- (b) the applicant shall be reminded that it is the applicant's responsibility to ensure proper and full implementation of all precautionary and mitigation measures including regular maintenance of the existing septic tank to keep it in good operating condition in view of its long service time.

Traffic

9.1.4 The Commissioner for Transport (C for T) advises that the application is tolerable from the traffic engineering viewpoint having regard to the transport-related information submitted by the applicant.

Landscape

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

- (a) she has no objection to the application from the landscape planning point of view;
- (b) based on the aerial photo of 2018, the Site is situated in an area of rural landscape character surrounded by clustered tree groups, farmlands and temporary structures. No significant landscape resource of high sensitivity is observed within the Site. According to the proposed layout in the application, no significant change in the landscape aspect of the Site is observed. Significant adverse impact on existing landscape resources arising from the application is not anticipated; and
- (c) should the Board approve the application, an approval condition on the maintenance of the existing vegetation including trees, shrubs and lawn within the Site during the planning approval period is recommended.

Drainage

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

- (a) he has no objection in principle to the application; and
- (b) the applicant shall ensure that rain water falling onto the Site and overland flow / surface runoff from adjoining sites which enter the subject site shall be collected by a drainage system and conveyed to a proper discharge point(s). The applicant shall maintain such system properly and rectify the system if it is found to be inadequate or ineffective during operation at his own cost. The development and its drainage facilities shall not obstruct the flow of existing drainage facilities. The applicant shall be liable for and shall indemnify Government against claims and demands arising out of damage or nuisance caused by failure of the system.

Public Hygiene

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

- (a) he has no objection to the application for renewal of planning approval; and
- (b) the operation of the subject animal boarding establishment should not cause any environmental nuisances and/or hygienic problems.

Fire Safety

9.1.8 the Director of Fire Services (D of FS) has no in-principle objection to the application. Should the Board approve the application, an approval condition on the maintenance of the existing fire services installations (FSIs) in efficient working order at all times is recommended.

Building Matters

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

- (a) there is no record of submission to the Building Authority for approval for the applied use at the Site;
- (b) the proposed temporary structures are subject to the control of Part VII of the Building (Planning) Regulations (B(P)Rs);
- (c) if any existing structures are erected on leased land without approval of the BD, they are unauthorised under the Buildings Ordinance (BO) and should not be designated for any approved use under this application;
- (d) before any new building works (including excavation, underground structure, container/open shed as temporary buildings, etc.) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorised Person (AP)

should be appointed as the co-ordinator for the proposed building works in accordance with the BO;

- (e) 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;
- (f) 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 B(P)Rs respectively; and
- (g) if the Site does not abut 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)Rs at the building plan submission stage.

District Officer's Comments

9.1.10 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

he has consulted the locals regarding the application. The Chairman of Association of Ping Kong Area Residents (丙崗區居民福利會) raises objection to the application for not wanting the Government to pay compensation to the applicant when it resumes the lots. The Chairman of Sheung Shui District Rural Committee (SSDRC), the incumbent North District Council (NDC) member of Yu Tai Constituency, the Indigenous Inhabitant Representative and the Resident Representative of Ping Kong have no comments on the application.

9.2 The following Government departments have no comment on / no objection to the application:

- (a) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (c) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD);
- (d) Chief Engineer/Construction, Water Services Department (CE/C, WSD); and
- (e) Director of Electrical and Mechanical Services (DEMS).

10. Public Comments Received During Statutory Publication Period

On 10.5.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments were received (**Appendix III**). A NDC Member and the Chairman of SSDRC indicate no comment on the application. An individual objects to the application mainly on the grounds that the development is not in line with the planning intention of "REC" zone and the Site should be used for other more pressing needs in the community.

11. Planning Considerations and Assessments

- 11.1 The application is for renewal of a planning approval for temporary animal boarding establishment and ancillary facilities for a period of three years at the Site within the "REC" zone, which is primarily for recreational developments for the use of the general public, and to encourage the development of active and/or passive recreation and tourism/eco-tourism. Although the applied use is not in line with the planning intention of the "REC" zone, it is temporary in nature and the Site concerned does not constitute a significant portion of the "REC" zone (**Plan A-1**). Approval of the application on a temporary basis for another three years would not jeopardize the long-term planning intention of the "REC" zone.
- 11.2 The current development scheme is same as the previously approved scheme (No. A/NE-PK/80) in terms of the applied use, site layout and development parameters. All the approval conditions for the previous application have been complied with and there has not been major change in planning circumstances since the approval of the previous application.
- 11.3 The applied use is considered not incompatible with the surrounding environment which is rural in character with mainly active/fallow agricultural land, temporary domestic structures and vacant land (**Plan A-2**). It is also not expected to have significant adverse impacts on the surrounding area. Concerned Government departments consulted, including C for T, CE/MN of DSD, DEP, D of FS and CTP/UD&L of PlanD, have no objection to or no adverse comment on the renewal application.
- 11.4 The application generally complies with the TPB PG-No. 34B on 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development' as there has not been any material change in planning circumstances since the approval of the last application; there are no adverse departmental comments against the renewal application; all the approval conditions for the last application have been complied with; and the approval period sought which is the same as the last approval granted by the Board is not unreasonable.
- 11.5 Regarding the adverse public comments as detailed in paragraph 10 and the local objection conveyed by DO(N), HAD in paragraph 9.1.10 above, the Government departments' comments and planning assessment 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, the Planning Department considers that the temporary use under application could be tolerated for a further period of 3 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 3 years, and be renewed from 13.8.2019 until 12.8.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 10:00 a.m., as proposed by the applicant, is

allowed on the Site during the planning approval period;

- (b) the existing boundary fence on the Site should be maintained at all times during the planning approval period;
- (c) the existing vegetation including trees, shrub and lawn on the Site shall be maintained at all times during the planning approval period;
- (d) the existing drainage facilities on the Site should be maintained at all times during the planning approval period and rectified if they are found inadequate/ ineffective during operation;
- (e) the existing fire services installations on the Site should be maintained at all times during the planning approval period; and
- (f) if any of the above planning conditions (a), (b), (c), (d) or (e) is not complied with during planning approval, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

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 development is not in line with the planning intention of the "Recreation" zone which is primarily for recreational developments for the use of the general public, and the development of active and/or passive recreation and tourism/eco-tourism. There is no strong planning justification 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 the 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 3.5.2019
Appendix Ia	Supplementary Information received on 8.5.2019
Appendix Ib	Supplementary Information received on 8.5.2019
Appendix Ic	Further Information received on 31.5.2019

Appendix Id	Further Information received on 5.6.2019
Appendix Ie	Further Information received on 14.6.2019
Appendix II	Previous s.16 application covering the Site
Appendix III	Public Comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Vehicular Access Plan
Drawing A-3	Drainage Plan
Drawing A-4	Landscape Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
JUNE 2019**