

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

**APPLICATION NO. A/NE-PK/162**

- 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** : About 5,688 m<sup>2</sup> (including about 194 m<sup>2</sup> of government land)
- Land Status** : (i) Block Government Lease (demised for agricultural 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

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning permission to continue using the application site (the Site) for a temporary animal boarding establishment and ancillary facilities for a period of 3 years. The Site falls within an area zoned “REC” on the approved Ping Kong OZP No. S/NE-PK/11 (**Plan A-1**). According to the Notes 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 under Application No. A/NE-PK/135 until 12.8.2022.
- 1.2 According to the applicant, the temporary animal boarding establishment comprises 10 structures, with a total floor area of about 1,179m<sup>2</sup> and height ranging from 2m to 6m (1 to 2 storeys), within the Site for shading, dog kennels, staff restrooms, dog exercise, storeroom and washroom uses. Three dog swimming pools (covering a total area of about 327m<sup>2</sup>) are also provided. The dog kennels with 18 rooms can accommodate a maximum of 24 dogs. The Site is accessible via a local track leading to Fan Kam Road. A total of 20 parking spaces for private cars are provided for visitors. The operation hours is between 10:00 a.m. to 6:00 p.m. daily. The layout plan, drainage plan, fire service installations (FSIs) plan, landscape plan and vehicular access plan are at **Drawings A-1 to A-5** respectively.

- 1.3 The Site is the subject of two previous applications (No. A/NE-PK/80 and 135) (details in paragraph 6 below).
- 1.4 In support of the application, the applicant has submitted the following documents:
  - (a) Application Form with attachments received on 7.6.2022 **(Appendix I)**
  - (b) Further Information (FI) received on 5.7.2022 **(Appendix Ia)**
  - (c) FI received on 21.7.2022 **(Appendix Ib)**

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

The justifications put forth by the applicant in support of the application are detailed in the attachment of the application form and FI at **Appendices I, Ia and Ib** respectively as summarized below:

- (a) the applicant confirms that the site area, number of temporary structures and total floor area would be the same as the last planning application No. A/NE-PK/135 and supplements that he will follow up with Lands Department (LandsD) regarding the relevant Short Term Waiver (STW) and Short Term Tenancy (STT) of the development;
- (b) the applicant undertakes to maintain the access road leading to the Site and implemented drainage facilities and FSIs, and will liaise with other landowners on right of way issue;
- (c) the applicant has obtained the boarding establishment licence issued by the Agriculture, Fisheries and Conservation Department (AFCD). The applicant undertakes to comply with all the licensing requirements and the approval conditions to be imposed, should the application be approved; and
- (d) the dog kennels are located about 20m away from the nearby residents and installed with acoustic materials in order to minimise any potential noise nuisance. Exhaust fans are also installed in dog kennels to ensure good air ventilation. Dog wastes generated within the Site are stored in septic tanks which would be regularly cleaned up by desludger.

## **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 posting site notice and sending notice to the Sheung Shui District Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the government land portion within the Site, TPB PG-No.31A is not applicable.

**4. Town Planning Board Guidelines/Assessment Criteria**

The Town Planning Board Guidelines No. 34D (TPB PG-No. 34D) on ‘Renewal of Planning Approval and Extension of time for Compliance with Planning Conditions for Temporary Use or Development’ is relevant to this application. The relevant extract of the Guidelines is attached at **Appendix II**.

**5. Background**

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

**6. Previous Applications**

- 6.1 The Site is the subject of two previous applications (No. A/NE-PK/80 and 135) submitted by the same applicant for the same use as the current application. These applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) on 12.8.2016 and 21.6.2019 respectively mainly on the grounds that they were on a temporary basis and 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.
- 6.2 The development scheme submitted under the current application is the same as the last one (No. A/NE-PK/135) in terms of applied use, site layout and development parameters. All approval conditions under the last planning approval have been complied with and the planning permission is valid until 12.8.2022.
- 6.3 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

**7. Similar Application**

There is no similar application for ‘Animal Boarding Establishment’ use within the “REC” zone in the vicinity of the Site.

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

- 8.1 The Site is:
  - (a) formed, paved and currently occupied by an animal boarding establishment with ancillary facilities including shades and dog swimming pools; and
  - (b) accessible via a local track connecting leading to Fan Kam Road.
- 8.2 The surrounding areas have the following characteristics:

- (a) predominantly rural in character with active and fallow agricultural land, a goat farm, scattered temporary domestic structures and vacant land to the north, east and south of the Site;
- (b) a channelized watercourse is running along the eastern boundary of the Site; and
- (c) The Hong Kong Golf Club (Fanling) is located to the immediate west (**Plan A-2**).

## **9. Planning Intention**

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

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

- 10.1 Apart from the government department as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and recommended advisory clauses are provided in **Appendices IV** and **V** respectively.

### **Land Administration**

- 10.2 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):
- (a) the Site comprises private lots and adjoining government land. The private lots are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guarantee of right of access. The applicant should make their own arrangement for acquiring access to the Site, and there is no guarantee that any adjoining government land will be allowed for the vehicular access to the Site for the applied use;
  - (b) the actual occupation area and structures erected thereon do not tally with the development proposal under the current application. There are unauthorized structures erected on the Site and portions of government land are occupied without prior approval from his office. His office reserves the right to take necessary lease enforcement action against the structures on private lots and land control action against the irregularities on government land as appropriate. It is noted that the applicant is aware of the discrepancy mentioned above and undertakes to take follow-up action;
  - (c) the applicant should note that any proposed toilet facility should meet the current health requirements; and
  - (d) applications for STW and STT to regularize the existing unauthorized

structures and the actual occupation area on the Site were approved but the relevant documents have not yet executed.

**11. Public Comments Received During Statutory Publication Period (Appendix VI)**

On 14.6.2022, the application was published for public inspection. During the statutory public inspection period, three comments were received from individuals. While one indicates no comment on the application, the remaining two comments object to the application mainly for reasons of the vehicular access trespassing on private lots and inefficient use of land.

**12. Planning Considerations and Assessments**

- 12.1 This application is for renewal of a planning approval for temporary animal boarding establishment with ancillary facilities for a period of three years at the Site zoned “REC”, which is primarily for recreational developments for the use of 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 for another three years would not jeopardize the long-term planning intention of the “REC” zone.
- 12.2 The development is considered not incompatible with the surrounding environment which is predominated by agricultural land, a goat farm, scattered temporary domestic structures and vacant land (**Plan A-2**). While some temporary domestic structures are located to the southwest of the Site, no environmental complaint concerning the Site was received by DEP in the past three years. Although DLO/N, LandsD notes that actual occupation area and structures erected on the Site are different from the development scheme under the current application, the applicant confirms that site area, number of structures and total floor area would be the same as that under the previous application No. A/NE-PK/135 and will take follow-up action with LandsD.
- 12.3 The application is in line with the TPB PG-No. 34D in that the applicant has complied with all the approval conditions under the last approved application, the current application is same as the last application in terms of applied use, site area and major development parameters, the renewal of planning approval period sought is of the same time frame as the previous approval, and there has been no material change in planning circumstances since the granting of the last approval. In this regard, favourable consideration can be given to the current renewal application.
- 12.4 Relevant departments consulted including Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North, Drainage Services Department, Director of Fire Services and Chief Town Planner/Urban Design and Landscape, Planning Department have no objection to or no adverse comment on the application. To minimize any potential environmental nuisance and to address comments of concerned departments,

appropriate approval conditions are recommended in paragraph 13.2 below. Should the application be approved, 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' in order to minimise the possible environmental impacts on the surrounding areas.

- 12.5 Regarding the public comments as detailed in paragraph 11 above, comments of government departments and the planning assessments above are relevant. As for the concerns of the vehicular access trespassing on private land, the applicant undertakes to resolve the right of way issues with relevant landowners.

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

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department has no objection to the application.
- 13.2 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 three years and **be renewed from 13.8.2022 to 12.8.2025**. 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 should 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 rectify 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 the planning approval period, 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 V**.

13.3 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 "Recreation" zone which is primarily for recreational developments for the use of 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.

#### **14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 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.
- 14.3 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.

#### **15. Attachments**

|                           |  |
|---------------------------|--|
| <b>Appendix I</b>         | Application form with attachments received on 7.6.2022 |
| <b>Appendix Ia</b>        | FI received on 5.7.2022                                |
| <b>Appendix Ib</b>        | FI received on 21.7.2022                               |
| <b>Appendix II</b>        | Relevant extracts of TPB PG-No. 34D                    |
| <b>Appendix III</b>       | Previous applications                                  |
| <b>Appendix IV</b>        | Government departments' general comments               |
| <b>Appendix V</b>         | Recommended advisory clauses                           |
| <b>Appendix VI</b>        | Public comments  |
| <b>Drawing A-1</b>        | Site layout plan                                       |
| <b>Drawing A-2</b>        | Drainage plan  |
| <b>Drawing A-3</b>        | Fire service installations plan                        |
| <b>Drawing A-4</b>        | Landscape plan   |
| <b>Drawing A-5</b>        | Vehicular access plan                                  |
| <b>Plan A-1</b>           | Location plan  |
| <b>Plan A-2</b>           | Site plan  |
| <b>Plan A-3</b>           | Aerial photo   |
| <b>Plan A-4a and A-4b</b> | Site photos  |