

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-HC/342

<u>Applicant</u>	:	Hong Kong Pets Recreational Centre Limited represented by Mr. Wong Sun Wo William
<u>Site</u>	:	Lots 6 S.A and 6 S.B RP (Part) in D.D. 244 and Adjoining Government Land (GL), Ho Chung, Sai Kung, New Territories
<u>Site Area</u>	:	About 4,960m ² (including about 700m ² GL (about 14.1%))
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Ho Chung Outline Zoning Plan (OZP) No. S/SK-HC/11
<u>Zonings</u>	:	“Green Belt” (“GB”) (about 97%) Area shown as ‘Road’ (about 3%)
<u>Application</u>	:	Proposed Temporary Animal Boarding Establishment (Dog Boarding Room and Dog Training Centre with Ancillary Reception and Storeroom) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary animal boarding establishment (dog boarding room and dog training centre with ancillary reception and storeroom) for a period of five years at the application site (the Site). The Site falls within an area largely zoned “GB”¹ on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Animal Boarding Establishment’ is a Column 2 use within the “GB” zone which requires permission from the Town Planning Board (the Board). The Site is currently largely vacant, partly covered with grass and partly involved in unauthorized filling of land with deposition of construction materials.
- 1.2 According to the applicant, the proposed development will provide training, boarding and adoption services for the dogs. There will be two one-storey (4.5m) structures with a total floor area of about 780m² for dog boarding room and dog training centre with ancillary reception and storeroom uses (**Drawing A-1**). Not less than 3,000m² of open space will be used for an inclusive garden for pets which will be open to public. There will be no visitor parking space while two parking

¹ A minor portion of the Site (about 3%) falls within an area shown as ‘Road’, which can be considered as minor boundary adjustment.

spaces for staff, in addition to one taxi and one private light bus loading/unloading spaces, will be provided. As the Site falls within the water gathering grounds (WGG), the applicant proposes to store the generated sewage within a vacuum pump, which will be cleared daily. No hard paving, land filling and/or excavation will be undertaken, and the applicant claims that the Site will be landscaped. The operation hours will be 10 a.m. to 10 p.m. daily including public holidays. The layout plan and drainage proposal submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.3 In support of the application, the applicant has submitted the application form with attachments received on 20.12.2022 (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendix I** and summarised as follows:

- (a) their organisation, the applicant, comprises animal lovers who would like to teach dog owners how to take care of their pets, so as to avoid health and hygiene problems;
- (b) certified dog trainers have agreed to operate the proposed development at the Site. Services to be provided at the Site include dog boarding, dog training (including guide dogs), holding seminars, and the sheltering and adoption of stray dogs;
- (c) the proposed development is constrained by the capacity of Ho Chung Road. It is expected that visitors to the proposed development will be mainly nearby villagers and they shall access the Site by taxi or on foot. Hence the non-provision of visitor car parking spaces would not induce significant impact; and
- (d) the records of the daily clearing of the sewage holding vacuum tank will be submitted to concerned government departments at regular intervals. No sewage will be allowed to discharge into the streamcourse.

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 notifying the “current land owners” by registered post. Detailed information would be deposited at the meeting for Members’ inspection. The “owner’s consent/notification” requirements are not applicable to the GL portion of the Site.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 10 for ‘Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance’ (TPB-PG No. 10) is relevant to this application. The relevant assessment criteria are at **Appendix II**.

5. Background

A major part of the Site is subject to planning enforcement action against unauthorized development (UD) involving filling of land (**Plan A-2**). Enforcement Notice was issued on 6.1.2023 requiring discontinuance of the UD. The Site will be monitored.

6. Previous Application (Plan A-1)

A major portion of the Site is the subject of a previous application No. A/SK-HC/73 for proposed fourteen 2-storey houses, which was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 27.8.1999 mainly on grounds of not being in line with the planning intention of the “GB” zone, not in compliance with TPB-PG No. 10, failing to demonstrate no adverse drainage, water quality and traffic impacts, and setting an undesirable precedent. Compared with the previous application, the current application is submitted by a different applicant for a different use on a smaller site.

7. Similar Application (Plan A-1)

There is a similar application No. A/SK-HC/186 mainly within the same “GB” zone (with a portion of the site falling within the “Recreation” (“REC”) zone) on the OZP for proposed animal boarding establishment (kennel), which was rejected by the Committee of the Board on 6.5.2011 mainly on grounds of not being in line with the planning intentions of the “GB” and “REC” zones, not in compliance with TPB-PG No. 10, failing to demonstrate no adverse water quality and traffic impacts, and setting an undesirable precedent.

8. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3, and site photos on Plans A-4a and A-4b)

8.1 The Site is:

- (a) sandwiched between Ho Chung Road to its north and a streamcourse to its southeast;
- (b) gently sloping down from north to south;
- (c) partly filled with gravels, partly cleared exposing dirt underneath, and partly covered by a lawn;
- (d) largely vacant but deposited with some construction materials with scattered trees and vegetation;
- (e) previously vacant and covered by more vegetation and trees as seen in aerial photo taken on 5.2.2021 (**Plan A-3**); and
- (f) within the WGG.

8.2 The surrounding areas have the following characteristics:

- (a) of settled valleys landscape character predominated by village houses, scrublands and woodlands;
- (b) to the immediate north is Ho Chung Road, and to the further north is a cluster of village houses namely ‘Venice Villa’, as well as woodlands zoned “Conservation Area” (“CA”) on the OZP;
- (c) to the immediate southeast is a natural streamcourse flowing towards Ho Chung Lowland Raw Water Pumping Station downstream, to the north of the pumping station across the streamcourse is the village proper of Ho Chung; and
- (d) to the south and west are mainly fallow/cultivated farmland, tree groups and scattered dwellings.

9. **Planning Intention**

The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

10. **Comments from Relevant Government Departments**

10.1 Apart from the government departments 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 at **Appendices III** and **V** respectively.

10.2 The following government departments have been consulted and their views are summarised as follows:

Lands Administration

10.2.1 Comments of the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD):

- (a) he has reservation on the application;
- (b) the submission indicated an existing temporary structure of 46.4m² straddling on the concerned private lots to be converted to storeroom use (**Drawing A-1**). The area where this temporary structure is situated was previously covered by a squatter control number. However, the squatter control number was cancelled on 18.1.2023 as breaches were detected. Lease enforcement actions against this existing temporary structure will be taken by his department according to case priority;

- (c) his recent site inspection also revealed suspected illegal occupation on the concerned GL. Investigation is being taken by his office. Land control actions will be initiated if any illegal occupation of GL is confirmed;
- (d) other detailed comments are at **Appendices III and V**.

Traffic

10.2.2 Comments of the Commissioner for Transport:

- (a) since substantial area within the Site is proposed to be opened to the public, the assumption that the visitors will be mainly nearby villagers who will not drive to the proposed development is doubtful. The applicant should justify the assumption with reference to the operation mode and holding capacity of the proposed development and review the proposed internal transport facilities accordingly;
- (b) the applicant should demonstrate how the requirement that all visitors shall not drive to the proposed development can be implemented effectively; and
- (c) the applicant shall be responsible for the design and provision of vehicular access and pedestrian access connecting to Ho Chung Road and car parking and loading/unloading facilities to her satisfaction or of the Board, at the own cost of the applicant.

Nature Conservation

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

in view that the Site is partially developed and partially covered with common plant species, there is no comment on the application from the nature conservation perspective.

Urban Design and Landscape

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

Urban Design and Visual

- (a) the Site is located between a streamcourse and Ho Chung Road. The Site is situated slightly lower than Ho Chung Road and surrounded by dense vegetation. Low-rise, 3-storey residential developments are located on the opposite side of Ho Chung Road;
- (b) the original vegetation cover of the Site has been cleared and the visual character of the “GB” zone has been affected;

- (c) nevertheless, the proposed low-rise development (about 4.5m high) is considered not incompatible with the surrounding residential developments;

Landscape

- (d) the Site is situated in an area of settled valleys landscape character predominated by village houses, scrublands and woodlands. A natural channel is located to the immediate south of the Site. The Site was previously vacant with vegetation covered and several existing trees were observed within the Site (**Plan A-3**). However, it is observed that vegetation clearance and site formation have taken place on the Site as shown on the latest site photos (**Plans A-4a and A-4b**);
- (e) according to the submission, the proposed development includes two single-storey structures and an area is proposed to be opened to the public. There is no information on the landscape aspect as well as mitigation measures in the application. The proposed development is considered not entirely compatible with the surrounding landscape character due to the natural woodland setting and the “CA” zone to the north. Significant adverse impact from the proposed development is anticipated. She has reservation on the application from landscape planning perspective; and
- (f) other comments are included in the advisory clause at **Appendix V**.

Environment

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

- (a) since there are village houses close to the Site (approximately 30m from the Site boundary), the applicant should address all environmental issues (e.g. noise and odour impacts from the dogs, etc.) and the water quality impact from sewage and waste water arising from the proposed development. In view of the environmental concern and insufficient information in the submission to demonstrate its environmental acceptability, she is unable to support the application at this stage;
- (b) as the development is located within WGG, the Water Supplies Department (WSD) 's comments should be sought; and
- (c) other comments are included in the advisory clause at **Appendix V**.

Water Supply

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

- (a) he objects to the application; and
- (b) the Site falls within the lower indirect WGG, and is located in very close proximity to the streamcourse where water is received by the Ho Chung Lowland Raw Water Pumping Station (**Plan A-2**). Based on the submitted information, the operation and maintenance of the proposed development are considered posing high risks of contamination to the WGG, and shall not be permitted in accordance with the prevailing policy and practice in controlling against water pollution within WGG.

Geotechnical

10.2.7 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) the Site is overlooked by steep natural terrain and meets the alert criteria for a natural terrain hazard study (NTHS). Depending on the proposed layout of the development, a NTHS may be required to assess the scale of hazards, and suitable mitigation measures, if found necessary, should be provided as part of the submission. The required NTHS and necessary hazard mitigation measures could incur significant cost implication to the proposed development;
- (b) the Site may affect or be affected by Feature No. 7SE-D/F89 (**Plan A-2**). The applicant should make necessary geotechnical submissions to LandsD and/or the Buildings Department for approval in accordance with the provisions of the Buildings Ordinance; and
- (c) other comments are included in the advisory clause at **Appendix V**.

Licensing

10.2.8 Comments of DAFC:

since the proposed development provides paid food and accommodation for animals, the applicant must apply for a Boarding Establishment License from his department. Currently there is no licence granted nor licence application being processed for the Site.

11. Public Comments Received During Statutory Publication Period

- 11.1 On 30.12.2022, the application was published for public inspection. During the statutory publication period, a total of 250 comments were received, including one supporting comment and 249 opposing comments. A full set of the public comments is deposited at the meeting for Members' inspection. Samples of the public comments are at **Appendix IV**.
- 11.2 The supporting comment submitted by an individual does not include specific reason for the support. The opposing comments are submitted by the Sai Kung

Rural Committee, the village representatives of Ho Chung and Man Wo, the Chairman of the 'Venice Villa' Owners Association and Management Committee, Kadoorie Farm and Botanic Garden Corporation, and individuals (mainly in various standard formats). The major grounds of opposition are summarised below:

- (a) not in line with the planning intention of "GB" zone;
- (b) no demand for more dog training and boarding services in the area;
- (c) disturbing the tranquillity of the locality;
- (d) inducing noise, odour and water pollution; and
- (e) unauthorised tree felling and site formation works involved, which may cause adverse landscape and drainage impacts.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary animal boarding establishment for a period of five years at the Site mainly zoned "GB" on the OZP. The "GB" zone is intended primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within the zone. The proposed development is not in line with the planning intention of the "GB" zone. There is no strong planning justification given in the submission for a departure from the planning intention, even on a temporary basis.
- 12.2 According to TPB-PG No. 10 (**Appendix II**), there is a general presumption against development within the "GB" zone and an application for new development within "GB" zone will only be considered in exceptional circumstances. It must be justified with very strong planning grounds. The development should not affect the existing natural landscape and cause any adverse landscape impact on the surrounding areas. Tree preservation and landscaping proposals should be provided. The Site was previously vacant with vegetation covered and several existing trees were observed, however, vegetation clearance and site formation have taken place (**Plans A-3, A-4a and A-4b**). No landscape and tree preservation proposals are provided in the submission. While DAFC has no comment on the application taking into account that the Site is partially developed, CTP/UD&L, PlanD advises that vegetation clearance has taken place at the Site and considers that the proposed development is not entirely compatible with the surrounding natural woodland setting and significant adverse landscape impact is anticipated. In this regard, the proposed development is considered not compatible with the surrounding areas and it would adversely affect the existing natural landscape.
- 12.3 Apart from the landscape aspect, the proposed development is also not in line with TPB-PG No. 10 in view of the technical issues raised by the concerned government departments. On transport and traffic aspects, TPB-PG No. 10 requires parking provision of appropriate scale to the development to be proposed. However,

C for T casts doubts on the assumption that the visitors will be mainly nearby villagers who will not drive to the proposed development and opines that the applicant should review the internal transport facilities. On water quality aspect, TPB-PG No. 10 stipulates that development controls and restrictions of areas designated as WGG must be complied with, but CE/C, WSD advises that the proposed development would pose high risks of contamination to the WGG and shall not be permitted in accordance with the prevailing policy and practice in controlling against water pollution within WGG. On environmental aspect, TPB-PG No. 10 states that any proposed development should not be itself the source of pollution. In this regard, DEP raises environmental concern over noise, odour and water quality impacts, and considers that there is insufficient information in the submission to demonstrate the environmental acceptability of the proposed development.

- 12.4 As for other technical aspects, concerned government departments, including H(GEO), CEDD, Chief Engineer/Mainland South, Drainage Services Department and the Director of Fire Services have no adverse comment on/ no in-principle objection to the application on geotechnical, drainage and fire safety aspects subject to incorporation of the recommended approval conditions.
- 12.5 The previous application No. A/SK-HC/73 was submitted by a different applicant for a different use which is not relevant to the current application. There is one similar application No. A/SK-HC/186 falling mainly within the same “GB” zone, which was rejected by the Committee in 2011 on the grounds of being not in line with the planning intention(s), not in compliance with TPB-PG No. 10, failing to demonstrate no adverse water quality and traffic impacts, and setting an undesirable precedent. The circumstances of the current application are similar to those of the rejected similar application. Rejection of the current application is consistent with the Committee’s previous decision.
- 12.6 A major part of the Site is subject to active planning enforcement action against UD involving filling of land. While the applicant claims that no land filling and/or excavation will be undertaken whereas filling of land is not applied for under the current submission, should the Committee decide to approve the application, the applicant should be advised that the planning permission does not condone any other use/development currently existing at the Site (i.e. unauthorized filling of land) but not covered by the application. Besides, DLO/SK, LandsD has reservation on the application as the Site is subject to lease enforcement action and suspected illegal occupation of GL. While land administration issues should be handled separately, the applicant and/or the land owner should rectify/regularise the breaches at once.
- 12.7 The supporting public comment is noted. Regarding the public comments objecting to the application on the grounds as summarised in paragraph 11.2, the concerned government departments’ comments in paragraph 10 and the planning assessments in paragraphs 12.1 to 12.6 above are relevant.

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 does not support the application for the following reasons:

- (a) the proposed development is not in line with the planning intention of the “Green Belt” zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis; and
- (b) the proposed development does not comply with the Town Planning Board Guidelines No. 10 for Application for Development within the Green Belt Zone in that the applicant fails to demonstrate that the proposed development would be compatible with the surrounding areas, would not affect the existing natural landscape, would not generate adverse impact on the water quality within water gathering grounds, would not be a source of pollution, and would be provided with appropriate parking facilities.

13.2 Alternatively, 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 17.2.2028. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 10:00 p.m. and 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) provision of boundary fencing at the Site within **6 months** from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 17.8.2023;
- (c) the design of the vehicular access and pedestrian access connecting to Ho Chung Road and car parking and loading/unloading facilities within **6 months** from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 17.8.2023;
- (d) in relation to (c) above, the provision of the vehicular access and pedestrian access connecting to Ho Chung Road and car parking and loading/unloading facilities within **9 months** from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 17.11.2023;
- (e) the submission of a revised 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 17.8.2023;
- (f) in relation to (e) above, the implementation 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 17.11.2023;

- (g) in relation to (f) above, the implemented drainage facilities at the Site should be maintained at all times during the planning approval period;
- (h) the submission of a natural terrain hazard study within **6 months** from the date of planning approval to the satisfaction of the Head of the Geotechnical Engineering Office of Civil Engineering and Development Department or of the Town Planning Board by 17.8.2023;
- (i) in relation to (h) above, the implementation of the mitigation measures identified in the natural terrain hazard study within **9 months** from the date of planning approval to the satisfaction of the Head of the Geotechnical Engineering Office of Civil Engineering and Development Department or of the Town Planning Board by 17.11.2023;
- (j) the submission of a fire service installations proposal 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 17.8.2023;
- (k) in relation to (j) above, the implementation of the 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 17.11.2023;
- (l) if any of the above planning condition (a) or (g) 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;
- (m) if any of the above planning condition (b), (c), (d), (e), (f), (h), (i), (j) or (k) 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
- (n) 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 at **Appendix V**.

14. Decision Sought

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

14.2 Should the Committee decide to reject the application, Members are invited to

advise what reason(s) for rejection should be given to the applicant.

- 14.3 Alternatively, 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.

15. Attachments

Appendix I	Application Form with Attachments received on 20.12.2022
Appendix II	Extract of Town Planning Board Guidelines No. 10 for Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance
Appendix III	Government Departments' General Comments
Appendix IV	Public Comments – Samples
Appendix V	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Drainage Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2023**