

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

**APPLICATION NO. A/SK-HC/298**

- Applicant** : Ms. Chiu To Yin represented by Goldrich Planners and Surveyors Limited
- Site** : Government Land in D.D. 244, Ho Chung New Village, Sai Kung, New Territories
- Site Area** : About 19.38m<sup>2</sup>
- Plan** : Approved Ho Chung Outline Zoning Plan (OZP) No. S/SK-HC/11
- Zonings** : ‘Road’ (about 14.56m<sup>2</sup> or 75.1%)  
“Village Type Development” (“V”) (about 4.82m<sup>2</sup> or 24.9%)
- Application** : Temporary Private Garden for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary private garden for a period of 3 years. The Site falls within an area partly zoned “V” and partly shown as ‘Road’ on the approved Ho Chung OZP No. S/SK-HC/11 (**Plan A-1**). According to the Notes of the OZP, temporary private garden at the Site requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site forms part of the subject of a previous application No. A/SK-HC/245 for the same use submitted by the same applicant. The previous application was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on a temporary basis of 3 years on 7.8.2015. The time limited approval conditions on the submission and implementation of landscape proposal have been complied with. The previous planning permission expired on 7.8.2018. The Site is being used as private garden without valid planning permission.
- 1.3 As compared to the previous application, the site area has been reduced from 24.11m<sup>2</sup> to 19.38m<sup>2</sup> (-20%).
- 1.4 In support of the application, the applicant has submitted the Application Form dated 29.6.2018 at **Appendix I**.

1.5 The lot index plan submitted by the applicant is at **Drawing A-1**.

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

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the Application Form at **Appendix I** and summarized as follows:

- (a) the Site is part of the subject of a previously approved application A/SK-HC/245. The approval conditions of the previous application have been complied with;
- (b) fresh application is needed as the site area is revised to exclude the emergency vehicular access (EVA) reserve area. The site area of the current application has made reference to the information provided by District Lands Office/Sai Kung; and
- (c) the proposed use can improve amenity of the village.

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

As the Site involves government land only, the “owner’s consent/notification” requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Section 12A and 16 of the Town Planning Ordinance (TPB GB-No.31) are not applicable to the application.

## **4. Previous Application**

The Site forms part of the subject of a previous application No. A/SK-HC/245 for the same use submitted by the same applicant. The previous application was approved with conditions by the Committee on 7.8.2015 on temporary basis for a period of 3 years, mainly on the grounds that the temporary approval would not jeopardize the long-term planning intention of the area; and no significant adverse impacts were anticipated. The planning permission was subject to approval conditions including the submission and implementation of landscape proposal; and the reinstatement of the application site to an amenity area upon the expiry of the planning permission. The time-limited approval conditions on the submission and implementation of landscape proposal have been complied with by the applicant. The previous planning permission expired on 7.8.2018.

## **5. Similar Applications**

- 5.1 There are seven similar applications for temporary private garden use (**Plan A-1**) involving four sites in the vicinity of the Site. Four of the similar applications (No. A/SK-HC/126, 169, 236 and 239) involve the same application site. Applications No. A/SK-HC/126, 169 and 239 for temporary private garden use for a period of 3 years were approved with conditions by the Committee on 17.2.2006, 23.1.2009 and 16.1.2015 respectively, mainly on similar grounds as mentioned in paragraph 4 above. Application No. A/SK-HC/236 for private garden use on a permanent basis was rejected by the Committee on 17.10.2014 mainly on the grounds of not in line with the planning intention of the area designated as ‘Road’ and setting of undesirable precedent.

- 5.2 Applications No. A/SK-HC/128, 152 and 213 for temporary private garden use for a period of 3 years at three other sites were approved with conditions by the Committee on 7.4.2006, 2.11.2007 and 1.6.2012 respectively, mainly on similar grounds as mentioned in paragraph 4 above. The details of the similar applications are at **Appendix II**.

**6. The Site and Its Surrounding Areas (Plans A-1 to A-2, Aerial Photo on Plan A-3 and Site Photos on Plans A-4a to A-4b)**

- 6.1 The Site is:

- (a) within the 'village environs' ('VE') of Ho Chung Village;
- (b) adjoining an existing 3-storey village house;
- (c) is currently fenced off and used as private garden; and
- (d) accessible by a village road leading to Nam Pin Wai Road.

- 6.2 The surrounding areas are mainly rural in character within clusters of 3-storey village houses.

**7. Planning Intentions**

- 7.1 The planning intention of "V" zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

- 7.2 The area designated as 'Road' is to make land reservation for road works.

**8. Comments from Relevant Government Departments**

- 8.1 The following government departments have been consulted and their views on the application are summarized as follow:

**Land Administration**

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

- (a) no objection to the application;
- (b) the government land under application (the Site) falls wholly within the 'VE' of Ho Chung;
- (c) Short Term Tenancy application for private garden purpose in respect of the Site is being processed; and

- (d) no project or EVA would be affected by the Site.

### **Traffic**

#### **8.1.2 Comments of the Commissioner of Transport (C for T):**

- (a) it is noted that major portion of the private garden is situated on government land designated as 'Road' on the OZP. From traffic engineering point of view, the road is a local/village access through Ho Chung village and there is no traffic justification at this stage for its implementation as a public road. Implementation of the road as a village access is outside Transport Department's purview and relevant departments should be consulted; and
- (b) as the application is for a temporary use of 3 years, he has no adverse comment on the application.

### **Environment**

#### **8.1.3 Comments of the Director of Environmental Protection (DEP):**

the applicant is advised to follow the latest 'Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses' issued by the Environmental Protection Department.

### **Landscape**

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

- (a) no objection to the application from landscape planning point of view;
- (b) the Site does not fall in "Landscape sensitive zoning and areas". Besides, as the application is for the renewal of 3 years temporary private garden, any further landscape impact is not anticipated; and
- (c) it is noted that approval conditions (a) and (b) of application No. A/SK-HC/245 in relation to the submission and implementation of landscape proposal have been fully complied with. For the current application, landscape approval condition is not necessary.

### **Drainage**

#### **8.1.5 Comments of the Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD):**

provided that adequate stormwater drainage facilities will be provided in connection with the development to deal with the surface runoff of the Site without causing any adverse drainage impacts or nuisance to the adjoining areas, he has no in-principle objection to the application from a drainage maintenance viewpoint.

### **Building Matters**

- 8.1.6 Comments of the Chief Building Surveyor/New Territories East 2 and Rail, Buildings Department (CBS/NTE2 & Rail, BD):

she has no comment under the Buildings Ordinance (BO) on the application. The applicant should be reminded that all non-exempted ancillary site formation and/or communal drainage works, if any, are subject to compliance with the BO, and an Authorized Person must be appointed for the site formation and communal drainage works.

### **Fire Safety**

- 8.1.7 Comments of the Director of Fire Services (D of FS):

provided that no 'mean of access of passage for passage of FS appliances' or 'EVA' would be affected by the Site, he has no specific comment on the application.

### **Water Supply**

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

(a) no objection to the application; and

(b) for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

- 8.2 The following government departments have no objection to/no comment on the application:

- (a) Chief Engineer (Works), Home Affairs Department;
- (b) Chief Highway Engineer/New Territories East, Highways Department;
- (c) District Officer/Sai Kung, Home Affairs Department;
- (d) Antiquities and Monuments Office, Leisure and Cultural Services Department;
- (e) Head of the Geotechnical Engineering Office, the Civil Engineering and Development Department; and
- (f) Director of Agriculture, Fisheries and Conservation.

## **9. Public Comment Received During Statutory Publication Period**

On 6.7.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 27.7.2018, one comment from an individual of the public was received (**Appendix III**). The commenter raises

concern on the obstruction of the EVA and comments that the development is not in line with the planning intention of the area designated as 'Road'.

## **10. Planning Considerations and Assessments**

- 10.1 The Site falls within an area partly zoned "V" and partly designated as 'Road' on the OZP. The planning intention of the "V" zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. The planning intention of the area designated as 'Road' is to make land reservation for road works. The private garden under application occupies a small area of about 5m<sup>2</sup> at the fringe of the "V" zone. C for T advises that the road is a local/village access through Ho Chung village. There is no implementation programme for road works in the area designated as 'Road'. In this connection, approval of the application on a temporary basis for 3 years would not frustrate the long-term planning intention of the Site.
- 10.2 The private garden under application is considered not incompatible with the surrounding land uses which are predominantly occupied by village type houses. In view of the small scale of the proposal, it is not anticipated to have adverse traffic, landscape, environmental and infrastructural impacts on the surrounding areas. Relevant departments consulted including C for T, CTP/UD&L of PlanD, DEP, CE/MS of DSD and CE/Construction of WSD have no adverse comments on/ no objection to the application. DLO/SK advises that no government project or EVA would be affected by the application.
- 10.3 The Site forms part of the subject of an approved application No. A/SK-HC/245 for the same use submitted by the same applicant. Since the approval of the previous application, there is no change in planning circumstances. Six similar applications for private garden uses involving four other sites in the vicinity were also approved by the Committee.
- 10.4 Public comment received is on the possible contravention of planning intention and obstruction of EVA. In this regard, the assessments in paragraphs 10.1 and 10.2 above are relevant.

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

- 11.1 Based on the assessments made in paragraph 10 and taken into account of the public comment in paragraph 9, the Planning Department considers that the temporary private garden could be tolerated for a period of 3 years.
- 11.2 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 until 17.8.2021. The following advisory clauses are also suggested for Members' consideration:

Advisory clauses

The recommended advisory clauses are attached at **Appendix IV**.

11.3 There is no strong reason to recommend rejection of the application.

**12. Decision Sought**

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

12.2 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.

12.3 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.

**13. Attachments**

<b>Appendix I</b>	Application Form dated on 29.6.2018
<b>Appendix II</b>	Similar Applications
<b>Appendix III</b>	Public Comment
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Lot Index Plan submitted by the Applicant
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4 a &amp; b</b>	Site Photos

**PLANNING DEPARTMENT  
AUGUST 2018**