

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

**APPLICATION NO. A/SK-HC/300**

- Applicants** : Mr. Ajoy Bannerji & Mrs. Devina Bannerji represented by LandsProject Ltd.
- Site** : Lot 479 in D.D. 244, Ho Chung, Sai Kung, New Territories
- Site Area** : About 121m<sup>2</sup>
- Lease** : Old Schedule Agricultural Lot held under the Block Government Lease
- Plan** : Approved Ho Chung Outline Zoning Plan (OZP) No. S/SK-HC/11
- Zonings** : “Village Type Development” (“V”) (about 111m<sup>2</sup> or 92%)  
“Agriculture” (“AGR”) (about 10m<sup>2</sup> or 8%)
- Application** : Temporary Private Swimming Pool and Garden for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicants seek planning permission for temporary private swimming pool and garden at the application site (the Site) for a period of 3 years. The Site falls within an area largely zoned “V” with a minor portion zoned “AGR” on the approved Ho Chung OZP No. S/SK-HC/11 (**Plan A-1**). According to the Notes of the OZP, temporary swimming pool and garden at the Site requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site is the subject of a previous application No. A/SK-HC/235 for temporary private swimming pool for a period of 3 years submitted by the same applicants. 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 26.9.2014. The time-limited approval conditions on the submission and implementation of fire service installations and water supplies for firefighting have been complied with. The previous planning permission expired on 26.9.2017. The Site is being used as private swimming pool and garden without a valid planning permission.
- 1.3 The swimming pool occupies a total area of about 29.4m<sup>2</sup> (about 0.8m to 1.5m in depth)(**Drawing A-3**). The remaining part of the Site is used for garden purpose. There is no change in site area and layout of the swimming pool as compared to

the previously approved application.

- 1.4 The section plan, layout plan and land survey plan submitted by the applicants are shown in **Drawings A-1 to A-3**.
- 1.5 In support of the application, the applicants have submitted the Application Form and attachments dated 6.11.2018 at **Appendix I**.

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in Part 9 of the Application Form at **Appendix I**. The applicants indicate that the swimming pool was built before they moved in and they would like to keep it for leisure and landscape purposes.

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

The applicants are the sole “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

## **4. Previous Application**

The Site is the subject of a previous application No. A/SK-HC/235 for temporary private swimming pool for a period of 3 years submitted by the same applicants. The previous application was approved by the Committee of the Board on a temporary basis of 3 years on 26.9.2014 mainly on the grounds that the long-term planning intention of the “V” zone would not be jeopardized and no significant adverse impacts were anticipated. All time-limited approval conditions of the planning permission including submission and implementation of fire service installations and water supplies for firefighting were complied with. The planning permission expired on 26.9.2017.

## **5. Similar Application**

There is no similar application for temporary private swimming pool and garden in the vicinity of the Site on the Ho Chung OZP.

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

### 6.1 The Site:

- (a) forms part of a private garden for the adjoining 3-storey village house (i.e. House 206). The house, private garden and the swimming pool are surrounded by a fence wall; and
- (b) is within the ‘village environs’ (‘VE’) of Ho Chung. It is accessible by a village road leading to Ho Chung Road.

6.2 The surrounding areas have the following characteristics:

- (a) mainly rural in character with 2 to 3 storeys village houses to the north, east and south;
- (b) to the west is the “AGR” zone with some approved Small Houses, grass and shrubs; and
- (c) to the further north is the Ho Chung Channel.

## **7. Planning Intention**

7.1 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. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

7.2 The planning intention of “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. Comments from Relevant Government Departments**

8.1 The following government departments have been consulted and their views on the application and public comments received are as follow:

### **Land Administration**

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

- (a) the Site is an old schedule agricultural lot held under Block Government Lease;
- (b) the existing swimming pool at the Lot is not acceptable under lease. The lot owners have previously applied to his office for a short term waiver to permit the existing swimming pool within the Lot. Processing of the proposed waiver was withheld pending valid planning approval;
- (c) if the planning application is approved by the Board, the lot owners will need to submit to his office further information to substantiate the waiver application to allow the existing

swimming pool at the Lot. However, there is no guarantee that the short term waiver will be approved by the Government. Such waiver application, if approved, will be subject to such terms and conditions, including, among others, payment of waiver fee and administrative fee, as the Government considers appropriate;

- (d) there are 125 outstanding Small House applications in Ho Chung Village and the 10-year Small House demand forecast is 235; and
- (e) no complaint has been received against the subject swimming pool and he has no comment on the public comments received.

### **Environment**

#### 8.1.2 Comments of the Director of Environmental Protection (DEP):

- (a) according to the Environmental Protection Department (EPD)'s ProPECC Note PN 5/93 'Drainage Plans subject to Comments by EPD', the wastewater from the filtration plant of the swimming pool should be discharged into the existing septic tank and soakaway system as there are no public sewers in the area; and
- (b) there has been no substantiated complaint record in connection with the swimming pool applied in Ho Chung since December 2016.

### **Landscape**

#### 8.1.3 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 swimming pool is considered not incompatible with the surrounding landscape context. Besides, the swimming pool has already been built at the Site. Significant adverse landscape impact arising from the temporary swimming pool is not anticipated; and
- (c) due to the lack of available space within the Site, implementation of effective landscape treatment for bringing visual enhancement to the public realm seems not practicable. It is considered not necessary to impose any landscape-related condition should the application be approved by the Board.

### **Building Matters**

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

- (a) no in-principle objection under the Buildings Ordinance (BO) on the planning application subject to the following comments:

- (i) there is no record of approval by the Building Authority (BA) in respect of the existing swimming pool at the Site;
  - (ii) for any unauthorised building works (UBW) erected on leased land, enforcement action may be taken by the BA to effect their removal in accordance with Buildings Department's enforcement policy against UBW as and when necessary;
  - (iii) the granting of any planning approval should not be constructed as an acceptance of any existing building works or UBW, if any, on the Site under the BO;
  - (iv) all building works are subject to compliance with the BO;
  - (v) Authorized Person (AP) must be appointed to coordinate all building works. However, carrying out minor works can follow the provision laid down under the Minor Works Control System; and
- (b) detailed comments will be given during general building plan submission stage.

### **Nature Conservation**

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

- (a) the Site was the subject of a previously approved planning application for the same purpose. He has no comment on the application from nature conservation perspective; and
- (b) waste water from the pool should be properly disposed and should not be discharged directly into any nearby watercourses.

### **Fire Safety**

8.1.6 Comments of the Director of Fire Services (D of FS):

- (a) he has no in-principle objection to the application subject to the fire service installations and water supplies for firefighting being provided to the satisfaction of his Department. Emergency vehicular access (EVA) arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by Buildings Department; and
- (b) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.

**Water Supply**

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

- (a) he has no objection to the application;
- (b) for provision of water supply to the development, the applicants may need to extend their inside services to the nearest suitable Government water mains for connection. The applicants 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;
- (c) the applicants are requested to note the following conditions with regard to the installation of swimming pool system:
  - (i) water supply would be withdrawn if in the opinion of the Water Authority that the supply situation requires it, especially during periods of water restriction;
  - (ii) a re-circulating and purifying system is required to be installed for maintaining the cleanliness of water in the pool;
  - (iii) the complete draining and filling of the pool is limited to once a year;
  - (iv) a 14-day written notice should be given to the Authority before the commencement of filling of the pool; and
- (d) he has no comment on the public comments received and his regional office has not received any complaint relating to the swimming pool applied, in particular, the water discharge issue.

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

- (a) Commissioner for Transport (C for T);
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (c) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (d) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (e) Chief Engineer (Works), Home Affairs Department (CE(Works), HAD); and
- (f) District Officer/Sai Kung, Home Affairs Department (DO/SK, HAD).

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

On 13.11.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 4.12.2018, two comments were received from the indigenous inhabitant representative of Ho Chung and the Sai Kung Ho Chung Village Committee (**Appendix II**). They have reservation on/objection to the application mainly on grounds that the development is not in line with the planning intention of the “V” zone and there is insufficient land zoned “V”; the applicants have not provided any information on lease and building plans; the application would set an undesirable precedent which will encourage a waste of land resources; and the proposal would result in adverse environmental impact and health problem.

**10. Planning Considerations and Assessments**

- 10.1 The Site falls within an area largely zoned “V” (92%) with a minor portion zoned “AGR” (8%) 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. The planning intention of the “AGR” zone is 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. Although the proposed swimming pool is not in line with the planning intention of the “V” zone, given the temporary nature of the swimming pool, approval of the subject application on a temporary basis for 3 years would not jeopardise the long-term planning intention of the “V” zone. Only about 10m<sup>2</sup> of the Site falls within the “AGR” zone. DAFC has no objection to the application.
- 10.2 According to DLO/SK, LandsD, the outstanding Small House application for Ho Chung Village is about 125 while the 10-year Small House demand forecast is 235. Thus the total demand for Small House sites is 360. According to the latest estimate by PlanD, about 3.13 ha (equivalent to about 125 Small House sites) of land are available within the “V” zone of Ho Chung Village. As such, land is still available to meet the outstanding Small House applications in Ho Chung Village.
- 10.3 The Site is located at the western fringe of the “V” zone with village houses to the north, east and south. The temporary swimming pool and garden under application is considered not incompatible with the surrounding landscape context. In view of the small scale of the development, significant adverse traffic, environmental, landscape, drainage and water supply impacts are not anticipated. Relevant government departments consulted including C for T, DEP, CTP/UD&L of PlanD, CE/MS of DSD and CE/Construction of WSD have no objection to or no adverse comments on the application. DEP and CE/construction of WSD advise that no complaint has been received regarding the discharge of the swimming pool on the Site.
- 10.4 The Site is the subject of a previously approved application for temporary swimming pool submitted by the same applicants. The applicants have complied with all the approval conditions. Since the approval of the previous application,

there is no change in planning circumstances. Approval of the application is in line with the Committee’s previous decision.

- 10.5 Public comments objecting to/with reservation on the application are mainly on grounds of not in line with the planning intention of “V” zone, setting of undesirable precedents and adverse impacts. In this regard, the assessments in paragraphs 10.1 to 10.4 are relevant.

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

- 11.1 Based on the assessments made in paragraph 10, and taken into account of the public comments in paragraph 9, the Planning Department considers that the temporary private swimming pool and 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 4.1.2022. The following approval conditions and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) the submission of fire service installations and water supplies for firefighting 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 4.7.2019;
- (b) in relation to (a) above, the implementation of fire service installations and water supplies for firefighting 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 4.10.2019; and
- (c) if any of the above planning conditions (a) or (b) is not complied with by the specified dates, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

### Advisory Clauses

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

- 11.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members’ reference.

the private swimming pool is not in line with the planning intention of the “V” zone which is to designate both existing recognised 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. There is no strong justification given for a departure from the planning intention, even on a temporary basis.

**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 applicants.

**13. Attachments**

<b>Appendix I</b>	Application Form dated 6.11.2018
<b>Appendix II</b>	Public Comments
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Section Plan
<b>Drawing A-2</b>	Layout Plan
<b>Drawing A-3</b>	Land Survey 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-4</b>	Site Photos

**PLANNING DEPARTMENT  
JANUARY 2019**