

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

**APPLICATION NO. A/SK-HC/319**

- Applicant:** KONG Ka Foon
- Site:** Lot 2063 (Part) in D.D. 244 and adjoining Government Land, Ho Chung New Village, Sai Kung, New Territories
- Site Area:** About 36m<sup>2</sup>
- Land Status:** (i) Government land (GL) (about 31m<sup>2</sup> or 86%)  
(ii) Private land (about 5m<sup>2</sup> or 14%)
- Plan :** Approved Ho Chung Outline Zoning Plan (OZP) No. S/SK-HC/11
- Zonings:** Area shown as ‘Road’ (about 26m<sup>2</sup> or 72%)  
“Village Type Development” (“V”) (about 10m<sup>2</sup> or 28%)
- 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 shown as ‘Road’ and partly zoned “V” 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 which falls within the area designated as “Road” 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/213 for the same use submitted by the same applicant. The previous application No. A/SK-HC/213 was approved with condition by the Rural and New Town Planning Committee (the Committee) of the Board on a temporary basis of 3 years on 1.6.2012. The planning permission lapsed on 1.6.2015. The Site is being used as private garden without valid planning permission.
- 1.3 In support of the application, the applicant has submitted the application form with attachments which was received on 3.7.2020 at **Appendix I**. The location plan 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 the application form at **Appendix I**. They can be summarised as follows:

- (a) the applicant has applied for a STT for private garden use at the GL abutting his property;
- (b) the garden area is in the same state as when the applicant purchased his property. The location of the garden fence is in line with the abutting high fence wall in front of the house. The garden fence was erected for security reason and for avoiding car accidents that may injure the applicant's family; and
- (c) since the small area under application will not cause great inconvenience to others, the applicant hopes that the application could be approved.

## 3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is the sole "current land owner" of the private land portion of the Site. Detailed information would be deposited at the meeting for Members' inspection. For the GL portion, the "owner's consent/notification" requirements are not applicable.

## 4. Previous Application (Plans A-1 and A-2)

The Site is the subject of a previous application No. A/SK-HC/213 for temporary private garden for a period of 3 years submitted by the same applicant. The application was approved with condition by the Committee on 1.6.2012 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 designated as 'Road' and no significant adverse impacts were anticipated. The planning permission was subject to an approval condition on the reinstatement of the application site to an amenity area upon the expiry of the planning permission. The planning permission expired on 1.6.2015.

## 5. Similar Applications (Plans A-1 and A-2)

- 5.1 There are nine similar applications for private garden use (**Plan A-1**). Seven applications (Applications No. A/SK-HC/126, 128, 152, 169, 239, 245 and 298) were approved with conditions by the Committee between 2006 and 2018 for a period of 3 years mainly on similar grounds as mentioned in paragraph 4 above. One application No. A/SK-HC/236 for 'House (private garden ancillary to New Territories Exempted House (NTEH))' on a permanent basis was rejected by the Committee in 2014 mainly on the grounds of not in line with the planning intention of the area designated as 'Road' and setting of undesirable precedent. Details of the similar applications are at **Appendix II** and their locations are at **Plan A-1**.
- 5.2 In addition, application No. A/SK-HC/320 for temporary private garden use will be considered by the Committee in this same meeting.

**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 and 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 Ho Chung Road.

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

**7. Planning Intention**

7.1 The planning intention of the area designated as ‘Road’ is to make land reservation for road access to serve the local residents and as emergency vehicular access (EVA). The subject road reserve running north-south in Ho Chung New Village is intended to link up the Ho Chung, Nam Pin Wai, Mok Tse Che and Wo Mei Villages. It will facilitate the internal vehicular traffic circulation within the area and also serve as an EVA for the Ho Chung New Village.

7.2 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.

**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 Site involves the GL adjoining Lot No. 2063 in D.D. 244. The GL was granted by way of STT No. SX3226 for private garden purpose which is still valid;

- (c) there is no active project nor project under planning at the area concerned;
- (d) the application will not affect any “means of access for passage of fire services (FS) appliances / planned EVA;
- (e) the Site was not indicated in any “means of access for passage of FS appliances/ EVA clause in any of Building Licence of nearby affected village houses; and
- (f) the adjoining house is a NTEH.

### **Traffic**

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

- (a) no objection in-principle to the application from traffic engineering perspective; and
- (b) currently there is no implementation programme for the planned road based on records of his Office.

#### 8.1.3 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- (a) no comment on the application; and
- (b) no record of any planned road and any implementation programme for any planned road at the concerned location.

### **Environment**

#### 8.1.4 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**

#### 8.1.5 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, located at the southeastern portion of Ho Chung New Village, to the north of Nam Pin Wai Road, falls within an area partly shown as ‘Road’ and partly zoned “V” on the approved Ho Chung OZP No. S/SK-HC/11. The Site is the subject of a previous application No. A/SK-HC/213 for the same use which was approved

by the Committee of the Board on 1.6.2012;

- (c) according to the aerial photo of 2019, the Site is situated in an area of settled valleys landscape character dominated by village houses, car parking areas and scattered tree groups. No existing vegetation is observed within the Site. Significant adverse landscape impact arising from the development is not anticipated; and
- (d) in view of the limited site area for landscape treatment, it is opined that a landscape condition in planning permission is not required, should the application be approved by the Board.

### **Drainage**

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

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

### **Fire Safety**

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

no specific comment on the application should no objection be raised by LandsD on the same application.

### **Water Supply**

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

- (a) no objection to the application;
- (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; and
- (c) if any uncharted water mains are affected, the applicant shall bear the cost of the necessary diversion works.

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

- (a) District Officer/Sai Kung, Home Affairs Department;
- (b) Chief Engineer (Works), Home Affairs Department;
- (c) Director of Agriculture, Fisheries and Conservation;
- (d) Head of the Geotechnical Engineering Office, the Civil Engineering and Development Department;
- (e) Chief Building Surveyor/ New Territories 2 & Rail, Buildings Department; and
- (f) Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office, Development Bureau.

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

On 10.7.2020, the application was published for public comment. During the first three weeks of the statutory public inspection period, which ended on 31.7.2020, two public comments were received from the Village Committee of Ho Chung Village (with 4 signatures) and an individual. The Village Committee of Ho Chung Village objects to the application mainly on grounds that the Site is covered by GL; and the Site which is fenced off for private garden use will obstruct the passageway of villagers. The individual commenter raises concerns on the occupation of GL without planning approval since 2015 and visual impact arising from the metal fences.

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

10.1 The application is for temporary private garden adjoining an existing house at the Site which falls within an area partly shown as 'Road' (72%) and partly zoned "V" (28%) on the OZP. Temporary private garden use at the Site which falls within an area designated as "Road" requires planning permission from the Board. The planning intention of the area designated as 'Road' is to make land reservation for road access to serve the local residents and as EVA. While the temporary private garden use is not in line with the planning intention of the area designated as "Road", C for T and CHE/NTE, HyD advise that there is no implementation programme for the planned road in the area. In this connection, approval of the application on a temporary basis for 3 years could be tolerated and would not frustrate the long-term planning intention of the Site.

10.2 The temporary 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, fire safety and infrastructural impacts on the surrounding areas. Relevant departments consulted including C for T, CTP/UD&L of PlanD, DEP, D of FS, CE/MS of DSD and CE/Construction of WSD have no adverse comments on/ no objection to the application.

10.3 The Site is the subject of a previously approved application No. A/SK-HC/213 for the same use submitted by the same applicant. The planning permission expired on 1.6.2015 and the Site is currently used by the applicant as private garden without valid planning permission. Nevertheless, there has been no change in planning

circumstances since the approval of the previous application. In addition, seven similar applications for temporary private garden uses involving four other sites in the vicinity were also approved by the Committee.

- 10.4 Two public comments have been received raising concerns on occupation of GL and obstruction of passageway. In this regard, the assessments in paragraphs 10.1 and 10.2 above are relevant.

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

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments mentioned 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 21.8.2023. The following approval condition and advisory clauses are also suggested for Members' reference:

### Approval Condition

upon the expiry of the planning permission, the reinstatement of the application 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 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 the 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 date when the validity of the permission should expire.

- 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 with attachments received on 3.7.2020
<b>Appendix II</b>	Similar applications
<b>Appendix III</b>	Public comments
<b>Appendix IV</b>	Advisory clauses
<b>Drawing A-1</b>	Location Plan supplied 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>Plans A-4a &amp; A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
AUGUST 2020**