

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-HH/76

- Applicant:** Lucky Success Enterprises Limited represented by Lawson David and Sung Surveyors Limited
- Site:** Lots 49 S.A ss.3 (Part) and 49 S.A RP (Part) in D.D. 212, Che Keng Tuk, Sai Kung
- Site Area:** About 151.1m²
- Land Status:** Private Land (about 151.1m² or 100%)
- Plan :** Approved Hebe Haven Outline Zoning Plan (OZP) No. S/SK-HH/8
- Zoning:** “Village Type Development” (“V”)
- Application:** Renewal of Planning Approval for Temporary Private Swimming Pool for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to use the application site (the Site) for a temporary private swimming pool for a period of three years. The Site (**Plans A-1 and A-2**) falls within an area zoned “V” on the approved Hebe Haven OZP No. S/SK-HH/8. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP.
- 1.2 The Site was subject of three previous applications (Applications No. A/SK-HH/52, 62 and 72) for the same use submitted by the same applicant on a temporary basis for three years, the last renewal application No. A/SK-HH/72 was approved by the Rural and New Town Planning Committee (the Committee) on 8.9.2017. All approval conditions regarding the fire service installations (FSIs) in the previous planning permission have been complied with. The planning permission will lapse on 12.9.2020.
- 1.3 The proposal comprises a temporary private swimming pool of about 128m² (1.5 to 3m in depth), an ancillary filtration plant platform of about 9.6m² (50mm in height) and an underground surge tank of about 13.5m² (**Drawings A-1 and A-2**).

These remain unchanged from the previous approved planning application.

- 1.4 In support of the application, the applicant has submitted an application form with planning statement and appendices dated 10.7.2020 (**Appendices I and Ia**); and Further Information dated 25.8.2020 (accepted and exempted from publication) (**Appendix Ib**).

2. **Justifications from the Applicant**

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

- (a) the proposed temporary swimming pool will not jeopardize the planning intention of the “V” zone as it is temporary in nature for three years;
- (b) provision of swimming pool is common in the locality and is considered not incompatible with the local character of the area;
- (c) the Committee has previously approved three applications (No. A/SK-HH/52, 62 and 72) for a temporary private swimming pool at the Site for three years. The approval conditions related to FSIs have been complied with;
- (d) the applicant has obtained Short Term Waiver (STW) for the proposed swimming pool from the Lands Department and the latest building plan submissions were recently approved. As the planning permission and STW will expire on 12.9.2020, the applicant applied to renew the permission and implement the proposal;
- (e) the temporary swimming pool will be solely used by the residents of the house in Lot No. 335 in D.D. 212 (adjacent to the Site) (**Plan A-2**). The anticipated frequency of the swimming pool use is low. There will not be additional lightings installed to serve the swimming pool. Thus, the proposed use will not cause any environmental impact on the locality and would not generate air, noise and light pollution. There would not be any traffic generated and no traffic impact would be incurred;
- (f) according to the last approved application No. A/SK-HH/72, Drainage Services Department had no in-principle objection to the application from a drainage maintenance viewpoint. In this regard, adverse drainage impact arising from the proposed swimming pool is not anticipated;
- (g) the proposed swimming pool is to be constructed in-ground with only a filtration plant platform of not more than 50mm high and no trees would be affected. There would not be any adverse visual and landscape impact on the surrounding areas; and
- (h) during building plan submission stage of the approved scheme, an exemption for provision for FSIs was approved. The applicant has sought exemption for the submission and implementation of FSIs in the compliance of approval condition stage for application No. A/SK-HH/62 and such exemption was approved by the Fire Services Department (Appendix 1 in **Appendix Ia**).

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C) is relevant to the application. The relevant assessment criteria are attached at **Appendix II**.

5. Previous Applications

The Site is related to three previous approved applications No. A/SK-HH/52, 62 and 72, all submitted by the same current applicant and for the same temporary use (i.e. temporary private swimming pool for a period of three years). The previous applications were approved on 23.9.2011, 12.9.2014 and 8.9.2017 respectively 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. The details of these applications are summarised at **Appendix III**.

6. Similar Applications

There is no similar application for ‘Temporary Private Swimming Pool’ use within the “V” zone on the Hebe Haven OZP.

7. The Site and Its Surrounding Areas (Plans A-1 to A-4)

7.1 The Site is:

- (a) occupied by a newly constructed swimming pool surrounded with weeds;
- (b) formed part of a private garden for the adjoining lot;
- (c) within the ‘Village Environs’ of Che Keng Tuk Village; and
- (d) within the Consultation Zone of Pak Kong Water Treatment Works.

7.2 The surrounding areas have the following characteristics:

- (a) immediate north and north-west is a formed platform ready for development of houses (the original house at Lot 335 in D.D. 212 has been demolished);

- (b) predominately rural in character occupied by village houses of Che Keng Tuk Village with trees and shrubs;
- (c) to its south-east is the coastline of Hebe Haven zoned “Coastal Protection Area”;
- (d) to its north-west is the Hebe Villa which is zoned “Residential (Group C)1”;
and
- (e) to its north across Che Keng Tuk Road is the Lions Nature Education Centre.

8. Planning Intention

The planning intention of the “V” zone 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. 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.

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) no comments on the renewal of planning approval for temporary private swimming pool use;
- (b) the Site falls within two private lots (Lot No. 49 S.A ss.3 and Lot No. 49 s.A RP in D.D. 221) which are designated for agricultural use under the Block Government Lease;
- (c) subsequent to the Board’s approval given to the previous planning application No. A/SK-HH/62 on 12.9.2014, a STW No. SW 479 permitting a private swimming pool with ancillary filtration plant and an underground surge tank has been approved for a fixed term of 1.10.2016 to 12.9.2017 and thereafter quarterly at the waiver area;

- (d) if the renewal application is not approved by the Board, the STW may be terminated; and
- (e) there are 10 outstanding Small House applications in Che Keng Tuk Village while the 10-year Small House demand forecast is 19.

Environmental

9.1.2 Comments of Director of Environmental Protection (DEP):

- (a) no objection to the application from the chlorine risk point of view; and
- (b) according to EPD's ProPECC Note PN 5/93 "Drainage Plans subject to Comment by EPD", the wastewater (backwash) 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. The swimming pool water discharge from the main drain, footpath and swimming pool make-up tank drain should be discharged to stormwater drains. For the swimming pool water discharge to stormwater drains, the applicant should meet DSD's requirements on this drainage matter.

Landscape

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

- (b) the Site, located to the south of Che Keng Tuk Road, falls within an area zoned "V" on the approved Hebe Haven OZP No. S/SK-HH/8. The Site was involved in three previous planning applications (No. A/SK-HH/52, 62 and 72) for the same temporary use, which were approved with conditions on 23.9.2011, 12.9.2014 and 8.9.2017 respectively;
- (c) according to the aerial photo of 2019, the Site is situated in an area of Rural Coastal Plains landscape character, where it is dominated by tree groups and village houses. The proposed development is considered not incompatible with the landscape setting in the proximity. Further adverse landscape impact arising from the continued use for temporary private swimming pool is not anticipated; and
- (d) in view that the proposed development is unlikely to cause further adverse landscape impact, it is opined that a landscape condition in planning permission is not required, should the application be approved by the Board.

Drainage

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

- (a) no in-principle objection to the application from drainage maintenance viewpoint under the condition that adequate stormwater drainage facilities will be provided in connection with the proposed swimming pool without causing any adverse drainage impacts or nuisance to the adjoining areas;
- (b) the Site is within an area where neither public drainage nor sewerage connections are available in the vicinity at present;
- (c) there is a practice note (latest version September 1993) issued by EPD regarding the discharges of swimming pool water and filtration plant effluent. The former should go to stormwater drains and the latter should go to sewers. The Authorized Person should ensure that the discharges are connected to the correct drains/sewers and the downstream drains capacity would not be affected by the discharge of swimming pool. Also, the applicant should ensure that there is no land right issue downstream to receive the flow; and
- (d) the lot owner shall be responsible for the maintenance of his completed drainage works and, if required in the future by DLO/SK, LandsD, the relocation of such works.

Building Matters

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

- (a) there is no in-principle objection under the Buildings Ordinance (BO) to the application;
- (b) all the building works are subject to BO;
- (c) Authorised Person must be appointed to coordinate all building works;
- (d) the granting of the planning approval should not be construed as an acceptance of the unauthorised structures on site under the BO. Enforcement action may be taken to effect the removal of all unauthorised works in the future;
- (e) the proposed filtration plant room and underground surge tank for the private swimming pool should be accountable for gross floor area/site coverage calculations under BO; and

- (f) detailed comments to be given during plans submission stage.

Fire Safety

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

- (a) no in-principle objection to the application subject to FSIs being provided to the satisfaction the D of FS;
- (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to Fire Services Department for approval. In addition, the applicant should also be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Water Supplies

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

- (a) no objection to the application;
- (b) the Site falls within the consultation zone of Pak Kong Water Treatment Works, which is a Potentially Hazardous Installation; and
- (c) 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.

9.2 The following government departments have no comment on the application:

- (a) Commissioner for Transport;
- (b) Director of Agriculture, Fisheries and Conservation;
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;

- (d) Chief Highway Engineer/New Territories East, Highways Department;
- (e) District Officer/Sai Kung, Home Affairs Department; and
- (f) Chief Engineer (Works), Home Affairs Department.

10. Public Comments Received During Statutory Publication Period

On 17.7.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 7.8.2020, two public comments were received from individuals (**Appendix V**). One commenter objects to the private recreational use and possible illegal parking while the other provides comments not directly related to the application.

11. Planning Considerations and Assessments

- 11.1 The application is for renewal of planning approval under previous application No. A/SK-HH/72 for temporary private swimming pool for a further period of three years. The Site falls within an area zoned “V”, the planning intention of 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. Although the proposed swimming pool is not in line with the planning intention of the “V” zone, given the temporary nature of the proposed swimming pool, the long-term planning intention of the “V” zone would not be jeopardized.
- 11.2 The Site is situated in an area of Rural Coastal Plains landscape character, where it is dominated tree groups and village houses. The proposed development is considered not incompatible with the landscape setting of the area, the temporary use under the renewal application is small in scale and is not anticipated to have significant adverse traffic, drainage, sewerage and environmental impacts on the surrounding areas. Relevant government departments including C for T, CE/MS of DSD, CE/Construction of WSD and DEP, DAFC have no objection to/no adverse comment on the application.
- 11.3 The previous applications for the same use by the same applicant were approved with conditions by the Committee between 2011 and 2017 and the approval conditions have been complied with. The proposal remains unchanged as compared to the previously approved scheme. The renewal application is generally in line with TPB PG-No. 34C in that since the last planning approval, there is no change in planning circumstances; no government departments consulted have adverse comments on or objection to the application; and the three year approval period sought is not longer than the original validity period of the previous approval and is reasonable.
- 11.4 According to DLO/SK, LandsD, the estimated 10-year Small House demand forecast for Che Keng Tuk Village is 19 while the number of outstanding Small House applications is 10. It is estimated that about 0.63 ha (or equivalent to about 25 Small House sites) of land are available within the “V” zone of Che Keng Tuk Village. There is sufficient land in “V” zone at Che Keng Tuk Village to satisfy

outstanding Small House applications and 10-year Small House demand.

11.5 Regarding the public comment objecting to the application, the assessment in paragraphs 11.1 and 11.2 above are relevant.

12. Planning Department's Views

12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers that the temporary private swimming pool **could be tolerated** for a further period of three years.

12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a further period of three years, and be renewed from 13.9.2020 until 12.9.2023. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission of fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.3.2021;
- (b) in relation to (a) above, the implementation of fire service installations proposal within **9** months from the commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.6.2021;
- (c) if any of the above planning conditions (a) or (b) is not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (d) upon 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 V**.

12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed temporary 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.

13. Decision Sought

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

13.2 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.

13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form dated 10.7.2020
Appendix Ia	Planning Statement
Appendix Ib	Further Information dated 25.8.2020
Appendix II	Relevant extract of Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C)
Appendix III	Previous applications
Appendix IV	Public comments received
Appendix V	Advisory Clauses
Drawing A-1	Lot Index Plan submitted by the applicant
Drawing A-2	Layout Plan submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos