

APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-HC/344

- Applicant** : Miss KONG Ka Foon
- Site** : Lot 2063 (Part) in D.D. 244 and adjoining Government Land (GL), Ho Chung New Village, Sai Kung, New Territories
- Site Area** : About 36m²
- Land Status** : (i) GL (about 31m² or 86%)
(ii) Private land (about 5m² or 14%)
- Plan** : Approved Ho Chung Outline Zoning Plan (OZP) No. S/SK-HC/11
- Zonings** : Area shown as ‘Road’ (about 26m² or 72%)
“Village Type Development” (“V”) (about 10m² or 28%)
- Application** : Renewal of Planning Approval for Temporary Private Garden for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to continue using the application site (the Site) for temporary private garden for a period of three 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 an area shown as ‘Road’ requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site is the subject of two previously approved applications (No. A/SK-HC/213 and No. A/SK-HC/319) for the same use submitted by the same applicant, details of which are in paragraph 5 below. The Site is currently occupied by the applied use with valid planning permission until 21.8.2023.
- 1.3 In support of the application, the applicant has submitted the application form with attachments which was received on 27.4.2023 at **Appendix I**. The location 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 the application form at **Appendix I**. They can be summarised as follows:

- (a) the garden area is in the same state as when the applicant purchased her 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 reasons and for avoiding car accidents that may injure the applicant's family; and
- (b) 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. Town Planning Board Guidelines

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

5. Previous Applications

The Site is the subject of two previous applications (No. A/SK-HC/213 and 319) submitted by the same applicant for the same applied use as the current application, which were approved with condition by the Committee on 1.6.2012 and 21.8.2020 respectively on temporary basis for a period of three years, mainly on the grounds that the temporary approval would not jeopardise the long-term planning intention of the area shown as 'Road' and no significant adverse impacts were anticipated. The planning permission granted under application No. A/SK-HC/319 is valid until 21.8.2023. The approval condition is related to reinstatement of the Site upon expiry of the planning permission. Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plans A-1** and **A-2**.

6. Similar Applications

There are nine similar applications for private garden use (**Plan A-2**) involving four sites in the vicinity of the Site. Eight applications (No. A/SK-HC/126, 128, 152, 169, 239, 245, 298 and 320) for temporary private garden use for a period of three years were approved with/without condition(s) by the Committee between 2006 and 2020 mainly on similar grounds as mentioned in paragraph 5 above. The remaining 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 on 17.10.2014 mainly on

the grounds of not in line with the planning intention of the area shown as ‘Road’ and setting of undesirable precedent. Details of the similar applications are at **Appendix IV** and their locations are shown on **Plan A-2**.

7. The Site and its Surrounding Areas (Plans A-1, A-2, aerial photo on Plan A-3 and site photos on Plan A-4)

7.1 The Site is:

- (a) within the village ‘environs’ of Ho Chung Village;
- (b) adjoining an existing three-storey NTEH;
- (c) is currently fenced off and used as private garden; and
- (d) accessible by a village road leading to Ho Chung Road.

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

8. Planning Intentions

8.1 The planning intention of the area shown 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 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 EVA for the Ho Chung New Village.

8.2 The planning intention of “V” zone is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. 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.

9. Comments from Relevant Government Departments

All government departments consulted have no objection to or no adverse comments on the application. Their general comments on the application and advisory comments in the recommended advisory clauses are provided in **Appendices V** and **VI** respectively.

10. Public Comment Received During Statutory Publication Period

On 5.5.2023, the application was published for public inspection. During the statutory

public inspection period, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The application is for renewal of the planning approval for temporary private garden at the Site which falls within an area partly shown as 'Road' (72%) and partly zoned "V" (28%) on the OZP. The planning intention of the area shown 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', the Commissioner of Transport (C for T) and the Chief Highway Engineer/New Territories East of Highways Department advise that there is no implementation programme for the planned road in the area. Besides, the District Lands Officer/Sai Kung of Lands Department advises that the application will not affect the EVA. In this connection, approval of the application on a temporary basis for further three years could be tolerated and would not frustrate the long-term planning intention of the Site.
- 11.2 The temporary private garden use 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, environmental, fire safety and infrastructural impacts on the surrounding areas. Relevant departments consulted including C for T, Director of Environmental Protection, Director of Fire Services, Chief Engineer/Mainland South of Drainage Services Department and Chief Engineer/Construction of Water Supplies Department have no adverse comments on or no objection to the application.
- 11.3 The Site is the subject of two previously approved applications (No. A/SK-HC/213 and 319) for the same use submitted by the same applicant, with the latest planning permission valid until 21.8.2023. The application is generally in line with TPB PG-No. 34D in that there has been no material change in the planning circumstances since the approval of the previous application; adverse planning implications arising from the renewal of the planning approval are not envisaged; the approval condition on reinstatement is not applicable if the subject renewal application is approved; and the three-year approval period sought is the same as the previous approval and is considered reasonable. In addition, eight similar applications for temporary private garden uses involving four other sites in the vicinity were also approved by the Committee. The rejected similar application was for permanent use. Approval of the current application is in line with the Committee's previous decisions.
- 11.4 There is no public comment received during the statutory publication period.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 above, the Planning Department considers that the temporary private garden 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 period of three years, and be renewed from 22.8.2023 until 21.8.2026. The recommended advisory clauses are attached at **Appendix VI**.

[Approval condition on reinstatement under the previous application No. A/SK-HC/319 is suggested to be removed as per the department's latest practice.]

- 12.3 There is no strong reason to recommend rejection of the renewal application.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the 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 reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form with attachments received on 27.4.2023
Appendix II	Relevant extract of TPB PG-No. 34D
Appendix III	Previous applications
Appendix IV	Similar applications
Appendix V	Government departments' general comments
Appendix VI	Recommended advisory clauses
Drawing A-1	Location 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

**PLANNING DEPARTMENT
JUNE 2023**