

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-HC/346

- Applicant** : Ms. CHAN Ka Po Reni
- Site** : Lot 1067 S.E in D.D. 244 and Adjoining Government Land (GL),
Ho Chung, Sai Kung, New Territories
- Site Area** : About 42.75m²
- Land Status** : (i) GL portion: (about 40.32m² or 94%)
(ii) Private land portion (about 2.43m² or 6%): Block Government
Lease (demised for agricultural use)
- Plan** : Approved Ho Chung Outline Zoning Plan (OZP) No. S/SK-HC/11
- Zoning** : Area shown as 'Road' (about 34.2m² or 80%)
"Village Type Development" ("V") (about 8.55m² or 20%)
- Application** : Temporary Private Garden for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a 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, while a temporary private garden at the Site being part of a New Territories Exempted House (NTEH) is always permitted in "V" zone, private garden on area shown as 'Road' requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site is paved and currently used as a private garden, without planning permission, for the adjoining NTEH (i.e. House No. 5, Dynasty Lodge in Lot 2069 in D.D. 244) (**Plan A-2**). The Site is the subject of a previous application No. A/SK-HC/128 for the same use for three years submitted by a different applicant which was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 7.4.2006, details are in paragraph 5 below.

- 1.3 In support of the application, the applicant has submitted an application form with attachments which was received on 22.11.2023 (**Appendix I**). The layout 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 Part 7 of the application form at **Appendix I** and summarised below:

- (a) the applicant wants to retain the garden area for private plantation and ornamentation purposes through application of Short Term Tenancy (STT); and
- (b) planning permission is required prior to the grant of STT.

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. Background

The Site and its immediate surroundings are not subject to any active planning enforcement action.

5. Previous Application

The Site is the subject of a previous application No. A/SK-HC/128 for a temporary private garden for a period of three years submitted by a different applicant. The application was approved by the Committee of the Board on 7.4.2006 on temporary basis for 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 expired on 7.4.2009. Details of the previous application are at **Appendix II** and its location is at **Plans A-1** and **A-2**.

6. Similar Applications

There are three similar applications for private garden use involving two sites in the vicinity area shown as ‘Road’ over the past five years. Two applications (No. A/SK-HC/319 and 320) were approved with condition by the Committee in 2020 for a period of three years mainly on similar grounds of the previous application as mentioned in paragraph 4 above. Another application (No. A/SK-HC/344) for renewal of the permission granted under Application No. A/SK-HC/319 was

approved for another period of three years in 2023. Details of the similar applications are at **Appendix III** and their locations are at **Plans A-1** and **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 paved and currently used as a private garden with ornamental plants for the adjoining NTEH. It is located entirely within the village 'environs' ('VE') of Ho Chung and served by an access road to the south leading to Nam Pin Wai Road.

7.2 The surrounding areas are mainly rural in character with clusters of village houses.

8. Planning Intention

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 IV** and **V** respectively.

10. Public Comments Received During Statutory Publication Period

On 1.12.2023, the application was published for public inspection. No public comment was received during the statutory public inspection period.

11. Planning Considerations and Assessments

11.1 The application is for temporary private garden at the Site which falls within an area partly shown as 'Road' (80%) and partly zoned "V" (20%) on the OZP. While the temporary private garden use is not in line with the purpose of road which land is reserved to serve the local residents and as emergency vehicular access (EVA), the Commissioner for Transport (C for T) and Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD) advise that there is no plan / programme to implement a

road or no planned road works at the Site. In this connection, approval of the application on a temporary basis for three years could be tolerated and would not frustrate the long-term use of the Site.

- 11.2 The temporary private garden under application is considered not incompatible with the surrounding land uses which are predominantly occupied by village type houses. While District Lands Officer/Sai Kung (DLO/SK) advises that the Site is partly within the EVA in Ho Chung New Village, Director of Fire Services (D of FS) has no objection to the application. 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, Director of Environmental Protection (DEP), Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) and Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) have no adverse comments on/ no objection to the application.
- 11.3 The Site is the subject of a previously approved application No. A/SK-HC/128 for the same use submitted by a different applicant. The planning permission expired on 7.4.2009 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, three similar applications for private garden use involving two sites in the vicinity were also approved by the Committee over the past five years.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department considers that the temporary private garden could be tolerated for a 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 until 12.1.2027. The recommended advisory clauses are at **Appendix V**.
- 12.3 There is no strong reason to recommend rejection of the application.

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 reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form with attachments received on 22.11.2023
Appendix II	Previous application
Appendix III	Similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Drawing A-1	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

**PLANNING DEPARTMENT
JANUARY 2024**