

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-HC/348

- Applicant** : Miss Ma Yuk Lan
- Site** : Lots 1067 S.D and 1074 S.B (Part) in D.D. 244 and Adjoining Government Land (GL), Ho Chung New Village, Sai Kung, New Territories
- Site Area** : About 119.73m² (including GL of about 89m² (74%))
- Lease** : 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 83.81m² or 70%)
"Village Type Development" ("V") (about 35.92m² or 30%)
- 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, temporary use or development of any land or buildings not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Planning permission is also required for all uses or developments within area shown as 'Road'. The Site is paved and currently used as a private garden without planning permission for the adjoining NTEH (i.e. House No. 3, Dynasty Lodge in Lot 2068 in D.D. 244) (**Plan A-2**).
- 1.2 The Site is the subject of five previous applications No. A/SK-HC/126, 169, 236, 239 and 320, of which applications No. A/SK-HC/236, 239 and 320 were submitted by the same applicant for the same use approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board between 2006 and 2020. The last planning permission (No. A/SK-HC/320) lapsed on 21.8.2023. Details of the previous applications are in paragraph 5 below and at **Appendix II**.

- 1.3 In support of the application, the applicant has submitted an application form with attachments which was received on 17.1.2024 (**Appendix I**).

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**. According to the applicant, the site is for garden use.

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 is not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site is the subject of five previous applications No. A/SK-HC/126, 169, 236, 239 and 320 with minor difference in site boundaries. Applications No. A/SK-HC/126, 169, 239 and 320 for temporary private garden were approved with conditions by the Committee on temporary basis for a period of three years between 2006 and 2020, mainly on the grounds that the temporary approval would not jeopardize the long-term planning intention of the area shown as ‘Road’ and no significant adverse impacts were anticipated.
- 5.2 Application No. A/SK-HC/236 for ‘House (private garden ancillary to NTEH)’ on a permanent basis was rejected by the Committee on 17.10.2014 mainly on the grounds that the applied use was not in line with the planning intention of the area shown as ‘Road’ and setting of undesirable precedent.
- 5.3 Details of the previous applications are at **Appendix II** and their locations are at **Plans A-1** and **A-2**.

6. Similar Applications

There are three similar applications for temporary private garden use for a period of three years involving two sites in the area shown as ‘Road’ on the OZP over the past five years. The three applications (No. A/SK-HC/319, 344 and 346) were approved by the Committee between 2020 and 2024 mainly on similar grounds as mentioned in paragraph 5.1 above. 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, completely fenced off and currently used as a private garden for the adjoining NTEH. It is located entirely within the village 'environs' 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**

- 8.1 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.
- 8.2 The planning intention of the area shown as 'Road' is to make land reservation for road access to serve the local residents. 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 traffic circulation within the area and also serve as an EVA of Ho Chung New Village.

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 26.1.2024, 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 for a period of three years which falls within an area partly shown as 'Road' (70%) and partly zoned "V" (30%) on the OZP. While the temporary private garden use is not in line with the planning intention of area shown as 'Road' which

land is reserved for road access 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 advise that there is no plan / programme to implement a road nor any 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 houses. While the District Lands Officer/Sai Kung, Lands Department advises that the Site is partly within the EVA in Ho Chung New Village, the Director of Fire Services has no adverse comment on 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, the Director of Environmental Protection, the Chief Engineer/Mainland South, Drainage Services Department and the Chief Engineer/Construction, Water Supplies Department 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/320 for the same use submitted by the same applicant. The planning permission lapsed on 21.8.2023 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 temporary private garden use involving two other sites in the vicinity were also approved by the Committee over the past five years. Approval of the application is in line with the Committee's previous decisions.

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 15.3.2027. 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 17.1.2024
Appendix II	Previous applications
Appendix III	Similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended Advisory Clauses
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial Photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
MARCH 2024**