

APPLICATIONS FOR PERMISSIONS
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/SK-PK/269, 270, 271 and 272

Applicant : Fruitful Realty Enterprises Limited represented by R-riches Property Consultants Limited

Sites :

A/SK-PK/269	Lots 1342 S.B RP (Part), 1342 S.C and 1342 RP (Part)
A/SK-PK/270	Lots 1342 S.B RP (Part), 1342 S.E RP (Part) and 1342 RP (Part)
A/SK-PK/271	Lots 1342 S.E RP (Part), 1342 S.G RP (Part) and 1342 RP (Part)
A/SK-PK/272	Lots 1342 S.I RP (Part), 1342 S.K RP (Part) and 1342 RP (Part)

all in D.D. 221, Sha Kok Mei, Sai Kung, New Territories

Site Areas :

A/SK-PK/269	About 217m ²
A/SK-PK/270	About 241m ²
A/SK-PK/271	About 251m ²
A/SK-PK/272	About 258m ²

Lease : Old Schedule Agricultural Lots held under Block Government Lease

Plan : Approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No. S/SK-PK/11

Zoning : “Village Type Development” (“V”)

Applications : Proposed Temporary Private Garden and Swimming Pool for a Period of Three Years

1. The Proposals

- 1.1 The applicant seeks planning permissions for proposed temporary private garden and swimming pool for a period of three years at each of the application sites (the Sites) (**Plans A-1** and **A-2**). The Sites adjoin one another and fall within an area zoned “V” on the approved Pak Kong and Sha Kok Mei OZP No. S/SK-PK/11. 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 permission from the Town Planning Board (the Board), notwithstanding that the use or development may not be provided for in terms of the OZP.
- 1.2 The Sites, each with an area ranging from about 217m² to 258m², are located within the enclosed private gardens of four existing village houses. According to the applicant, the proposed temporary private gardens and swimming pools are for the leisure use of the residents of the adjoining houses only. Each proposed development includes a swimming pool (about 32m² in size and 1.5m in depth), a

below-ground pump room (about 2.3m² in size and 1.5m in height), and a private garden covering the remaining area of each Site (ranging from about 182.7m² to 223m²). The layout plans and sections of the proposed developments submitted by the applicant are at **Drawings A-1a to A-1d**.

1.3 In support of the applications, the applicant has submitted the following documents:

- (a) Application forms with attachments received on **(Appendices Ia to Id)** 12.1.2022
- (b) Further Information received on 24.2.2022 **(Appendix Ie)** clarifying the use of the proposed pools
[accepted and exempted from publication and recounting requirements]

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the applications are detailed in Part 7 of the application forms at **Appendices Ia to Id**. They can be summarised as follows:

- (a) the subject applications are made on a temporary basis and will not jeopardise the long-term planning intention of the “V” zone;
- (b) the proposed gardens and swimming pools are for private use only;
- (c) the proposed developments are small in scale and not incompatible with the surrounding land uses which are predominantly rural in character;
- (d) no significant adverse traffic, environmental, landscape and drainage impacts on surrounding areas are anticipated;
- (e) to minimise the potential adverse environmental and sewerage impacts, the applicant will follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department (EPD) and comply with the Water Pollution Control Ordinance (WPCO) when handling the discharge of pool water; and
- (f) if the applications are approved by the Board, the applicant will submit drainage and fire service installation (FSI) proposals to address the relevant technical concerns.

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. Previous Application

There is no previous application at the Sites.

5. Similar Application

There is no similar application for proposed temporary private garden and swimming pool within the “V” zone on the same OZP.

6. The Sites and their Surrounding Areas (Plans A-1 to A-4b)

6.1 The Sites are:

- (a) hard-paved with some planted areas;
- (b) currently used as private gardens, storerooms and parking spaces for four adjoining village houses;
- (c) located within a gated residential development, namely The Wong’s, which consists of six village houses (including the four houses that adjoin the Sites and two other houses); and
- (d) located within the ‘Village Environs’ (‘VE’) of Sha Kok Mei.

6.2 The surrounding areas have the following characteristics:

- (a) mainly rural in character and mostly occupied by village houses, temporary structures and tree groups;
- (b) to the immediate north and east of the Sites are a nullah flowing southward and a local track leading to Tai Mong Tsai Road to their southeast;
- (c) to the further north and west of the Sites are a cluster of village houses within an area zoned “Recreation” and the village proper of Sha Kok Mei within the same “V” zone respectively; and
- (d) to the further southeast of the Sites across Tai Mong Tsai Road are two “Comprehensive Development Area” sites, including one currently used for open storage of construction materials and another with a completed comprehensive residential development, namely The Mediterranean.

7. Planning Intention

The planning intention of the “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 are summarised as follows:

Land Administration

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

- (a) the village houses adjoining the Sites are the subjects of approved Small House Grants in the form of Free Building Licences;
- (b) the Sites comprise various carved out portions of Lot No. 1342 in D.D. 221 which is an Old Schedule agricultural lot held under Block Government Lease and no building/structure is permitted thereon. The lessee must obtain approval from the Government before any buildings or structures are erected or constructed thereon. His office cannot verify the respective areas of the Sites at the current stage. The applicant should make sure that the site data quoted in the planning applications is correct. The Sites fall within the 'VE' of Sha Kok Mei;
- (c) if the applications are approved by the Board, the lot owner shall apply to his office for short term waivers for the Sites to effect the proposals. However, there is no guarantee that such applications will be approved by the Government. Such applications, if eventually approved, will be subject to such terms and conditions including payment of waiver fees and administrative fees as the Government considers appropriate;
- (d) there is no Small House application under processing at the Sites; and
- (e) no comment on the point relating to the Small House Policy as raised in the public comment mentioned in paragraph 9.

Environment

8.1.2 Comments of the Director of Environmental Protection (DEP):

no in-principle objection to the applications subject to the following comments:

- (a) although the applicant proposes to discharge the pool water to a nearby stormwater drainage system, there is no information about stormwater drainage coverage near the Sites. The wastewater may be discharged to the nearby river. In any case, the applicant is advised to seek approval from the Drainage Services Department (DSD) for the handling of discharge and the application for WPCO licence. The discharge quality should meet the standards as listed on the WPCO licence;
- (b) the applicant is reminded that a minimum clearance distance of 7.5m

should be provided between the proposed swimming pools and the septic tank and soakaway system (if any). The applicant may refer to Professional Persons Environmental Consultative Committee Practice Note (ProPECC PN) 5/93 for details;

- (c) the applicant is reminded that no effluent containing agrochemicals (if applied in the Sites) will be allowed to enter the nearby water system according to the Technical Memorandum on Effluent Standards promulgated under the WPCO; and
- (d) the applicant should follow ProPECC PN 1/94 for the handling and disposal of construction site discharges.

Landscape

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

- (a) with reference to the aerial photo of 2021, it is observed that the Sites are situated in an area of miscellaneous rural fringe landscape character predominated by village houses, scrublands and small woodlands. The proposed developments are considered not incompatible with the landscape character of the surrounding environment; and
- (b) according to site photos dated 21.1.2022, the Sites are currently hard-paved, fenced off and used as private gardens. A few trees and shrubs planted by the applicant are observed within the Sites. Significant adverse landscape impact arising from the proposed developments is not anticipated.

Drainage

8.1.4 Comments of the Chief Engineer/Mainland South (CE/MS), DSD:

- (a) the Sites are within an area where neither public drainage nor sewerage connections are available in the vicinity at present; and
- (b) no in-principle objection to the applications from drainage maintenance viewpoint provided that adequate stormwater drainage and disposal facilities will be provided in connection with the proposed developments to deal with the surface runoff of the Sites or the same flowing onto the Sites from the adjacent areas as well as the disposal of pool water without causing any adverse drainage impacts or nuisance to the adjoining areas.

Building Matters

8.1.5 Comments of the Chief Building Surveyor/Hong Kong East and Heritage, Buildings Department (CBS/HKE&H, BD):

no in-principle objection to the applications under the Buildings Ordinance (BO) subject to the following comments:

- (a) before any new building works are carried out on leased land, prior approval and consent from the Building Authority (BA) should be obtained, otherwise they are unauthorised building works. An Authorised Person must be appointed to coordinate all new building works in accordance with the BO;
- (b) unless the Sites abut on a specified street complying with the requirements under the Building (Planning) Regulations (B(P)R) 18A(3) and not less than 4.5m wide, the development intensity of the Sites, where applicable, shall be determined by the BA under B(P)R 19(3);
- (c) the means of obtaining access to the Sites from a street including the land status of the existing access road should be clarified to demonstrate compliance with B(P)R 5; and
- (d) detailed comments will be given during the general building plan submission stage.

Fire Safety

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

- (a) no in-principle objection to the applications subject to FSIs being provided to the satisfaction of D of FS;
- (b) in consideration of the design/nature of the proposals, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporating the proposed FSIs to the Fire Services Department for approval. In addition, the applicant should be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy;
 - (ii) the location of the proposed FSIs should be clearly marked on the layout plans; and
- (c) if the proposed developments are required to comply with the BO, detailed fire service requirements will be formulated upon the receipt of formal submission of general building plans.

8.2 The following government departments have no objection to or no comment on the applications:

- (a) Commissioner for Transport;
- (b) Chief Highway Engineer/New Territories East, Highways Department;
- (c) Director of Agriculture, Fisheries and Conservation;
- (d) Chief Engineer/Construction, Water Supplies Department;
- (e) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (f) District Officer/Sai Kung, Home Affairs Department (HAD); and
- (g) Chief Engineer (Works), HAD.

9. Public Comment Received During Statutory Publication Period

On 21.1.2022, the applications were published for public inspection. During the statutory public inspection period, an opposing comment on the applications was received from an individual (**Appendix II**). The objection grounds are mainly that the proposed developments have allegedly been implemented before planning permissions are given; and the proposed developments will lead to a villa development deviating from the original intent of the Small House Policy. The commenter also raises concerns over the demand for New Territories Exempted House (NTEH) in the “V” zone and whether the applicant is the original indigenous villager who applied for the NTEH.

10. Planning Considerations and Assessments

- 10.1 The applications are for proposed temporary private gardens and swimming pools for a period of three years at the Sites, which fall within an area zoned “V” on the OZP. The planning intention of the “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. Although the proposed temporary private gardens and swimming pools are not in line with the planning intention of the “V” zone, the long-term planning intention of the “V” zone will not be jeopardised considering the temporary nature of the proposals. Moreover, DLO/SK of LandsD advises that there is no Small House application under processing at the Sites.
- 10.2 The Sites, situated in an area of miscellaneous rural fringe landscape character, are currently hard-paved, fenced off and used as private gardens. The proposed developments are considered not incompatible with the landscape character of the surrounding environment. Significant adverse landscape impact arising from the proposed developments is not anticipated. CTP/UD&L of PlanD has no adverse comment on the applications.
- 10.3 According to the applicant, in order to minimise the potential adverse environmental and sewerage impacts, the applicant will follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by EPD and comply with the WPCO when handling the discharge of pool water. If the applications are approved by the Board, the applicant will also submit drainage and FSI proposals to address the relevant technical concerns. DEP, CE/MS of DSD, D of FS and other relevant government departments consulted have no objection to or no adverse comment on the applications. Should the applications be approved, the approval conditions

recommended by CE/MS of DSD and D of FS are suggested in paragraph 11.2.

- 10.4 Regarding the opposing public comment on the applications, the proposed developments have not yet been implemented according to the site photos dated 21.1.2022 (**Plans A-4a and A-4b**). DLO/SK of LandsD has no comment on the issue relating to the Small House Policy. As regards the other concerns raised in the public comment, the departmental comments in paragraph 8 and the planning assessments in paragraphs 10.1 to 10.3 are relevant.

11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comment mentioned in paragraph 9, the Planning Department considers that the proposed temporary private gardens and swimming pools could be tolerated for a period of three years.
- 11.2 Should the Committee decide to approve the applications, it is suggested that the permissions shall be valid on a temporary basis for a period of three years until 4.3.2025. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission of a drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 4.9.2022;
- (b) in relation to (a) above, the provision of the drainage facilities within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 4.12.2022;
- (c) the submission of a fire service installation proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 4.9.2022;
- (d) in relation to (c) above, the implementation of the fire service installation proposal within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 4.12.2022; and
- (e) if any of the above planning conditions (a), (b), (c) or (d) is not complied with by the specified dates, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix III**.

- 11.3 Alternatively, should the Committee decide to reject the applications, the following reason for rejection is suggested for Members' reference:

the proposed development is not in line with the planning intention of the "Village Type Development" zone which 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. There is no strong justification in the submission for a departure from the planning intention, even on a temporary basis.

12. Decisions Sought

- 12.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant permissions.
- 12.2 Should the Committee decide to approve the applications, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permissions, and the period of which the permissions should be valid on a temporary basis.
- 12.3 Alternatively, should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicant.

13. Attachments

Appendices Ia to Id	Application Forms with attachments received on 12.1.2022
Appendix Ie	Further Information received on 24.2.2022
Appendix II	Public Comment
Appendix III	Recommended Advisory Clauses
Drawings A-1a to A-1d	Layout Plans and Sections
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2022**