

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

APPLICATION NO. A/SK-PK/303

<u>Applicant:</u>	Forever Sound Limited represented by Lawson David and Sung Surveyors Limited
<u>Site:</u>	Lot 1122 Ext. (Part) in D.D. 217 and Adjoining Government Land (GL), House B5, Habitat, Pak Sha Wan, Sai Kung, New Territories
<u>Site Area:</u>	About 96m ² (including 51m ² (about 53 %) of GL)
<u>Lease:</u>	Extension to Lot 1122 in D.D. 217: (a) granted by way of Extension Letter; (b) restricted for pleasure garden purposes only; and (c) no structure, other than boundary walls and fences shall be erected.
<u>Plan:</u>	Approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No. S/SK-PK/11
<u>Zoning:</u>	“Green Belt” (“GB”)
<u>Application:</u>	Renewal of Planning Approval for Temporary Private Swimming Pool and Garden for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to continue using the application site (the Site) for temporary private swimming pool and garden for a period of three years. The Site falls within an area zoned “GB” on the approved Pak Kong and Sha Kok Mei OZP No. S/SK-PK/11 (**Plan A-1**). 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). The Site is currently occupied by a private swimming pool and garden within the enclosed backyard of the adjoining house with valid planning permission.
- 1.2 The Site has a total area of about 96m², involving a temporary private swimming pool of about 35.8m² and a private garden of about 60.2m². The applicant proposes to continue using the Site as private swimming pool and garden for leisure and landscape purposes solely used by the residents of adjoining House B5,

Habitat. The Site is directly accessible from House B5 and completely fenced off. The filtration plant equipment is placed at the southwestern corner of the garden. The layout plan and sections of the swimming pool submitted by the applicant are at **Drawings A-1 and A-2**.

1.3 The Site is the subject of two previous applications (No. A/SK-PK/126 and 268) (details at paragraph 6 below). The latest previous application (No. A/SK-PK/268) was submitted by the same applicant with same applied use and layout which was approved with condition by the Rural and New Town Planning Committee (the Committee) of the Board on 18.2.2022 and the planning permission is valid until 18.2.2025. The approval condition related to the submission and implementation of a drainage proposal had already been complied with. Moreover, the applicant suggests that the findings of the Geotechnical Planning Review Report (GPRR) submitted with the previous application would still be applicable. According to the applicant, the nature of use and development parameters remain largely the same¹.

1.4 In support of the application, the applicant has submitted the following documents:

- | | |
|----------------------------------------------------------------------------------|----------------------|
| (a) Application Form received on 20.12.2024 | (Appendix I) |
| (b) Planning Statement and Supplementary information (SI) received on 23.12.2024 | (Appendix Ia) |
| (c) Further information (FI) received on 07.02.2025* | (Appendix Ib) |
- *accepted and exempted from publication and recounting requirements*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Planning Statement and FI at **Appendices Ia** and **Ib**. They can be summarised as follows:

- (a) the proposed private swimming pool and garden will not jeopardise the long-term planning intention of the “GB” zone as they are temporary in nature;
- (b) the proposed uses are small in scale and not incompatible with the surrounding areas. There is no tree or significant vegetation within the Site;
- (c) no adverse visual, landscape, traffic, environmental and drainage impacts and foreseeable geotechnical concerns are anticipated; and
- (d) the proposed development is compatible with the relevant planning criteria listed in TPB PG-No.10 and the approval for the renewal of planning permission is in line with the previous approval decisions of the Board.

¹ Except that the site area of the current application is slightly reduced by 11 m² (about 10%) to exclude the areas occupied by the slope feature No. 7SE-D/C86 currently maintained by Highways Department (HyD) and works area of Dualling of Hiram’s Highway from Marina Cove to Sai Kung Town.

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. For the GL portion, the “Owner’s Consent/Notification” requirements are not applicable.

4. Town Planning Board Guidelines

4.1 The Town Planning Board Guidelines for Application for Development within “Green Belt” Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10) is relevant to the application. The relevant assessment criteria are detailed at **Appendix II**.

4.2 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. 34D) is also relevant to the application. The relevant assessment criteria are attached at **Appendix III**.

5. Background

The Site is currently not subject to any active planning enforcement action.

6. Previous Applications

The Site is the subject of two previous applications (No. A/SK-PK/126 and 268). Application No. A/SK-PK/126, covered by most of the Site, was for a temporary private swimming pool development submitted by a different applicant, which was approved by the Committee on a temporary basis of three years on 29.8.2003 mainly on the grounds that the swimming pool would not cause any significant impact on the existing natural character of the “GB” area, and the swimming pool was for private leisure use which would unlikely cause any nuisance to the nearby residents. The planning permission expired on 30.8.2006. Subsequently, the current applicant submitted the application (No. A/SK-PK/268) with different layout and scale compared with the first application, and intended to use the Site for private swimming pool and garden for leisure and landscape purposes. The application was approved by the Committee with condition on 18.2.2022 mainly on the grounds that planning intention of the “GB” zone would not be jeopardised due to its temporary nature, no significant adverse landscape, traffic, drainage, sewerage, environmental and water impacts were anticipated and the application was generally in compliance with TPB PG-No.10. The approval condition related to the submission and implementation of a drainage proposal had been complied with. The planning permission is valid until 18.2.2025. Compared with the last approved application, the current application is submitted by the same applicant with same applied use, layout and development parameters with a slight reduction in site area. The details of the previous applications are at **Appendix IV**.

7. Similar Application

There was a similar application (No. A/SK-PK/111) for proposed temporary swimming pool for a period of three years within the same “GB” zone. It was approved by the Committee on 21.12.2001 with conditions including submission of landscaping proposal and geotechnical assessment but the planning permission was subsequently revoked on 21.6.2002. The details of the application are at **Appendix V**.

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

8.1 The Site is:

- (a) currently occupied by a private swimming pool and garden within the enclosed backyard of the adjoining house (i.e. House B5, Habitat, Pak Sha Wan) with valid planning permission; and
- (b) fenced off from the adjacent private gardens to its north and south and slope to its east.

8.2 The surrounding areas are mainly rural in character occupied by low-rise and low-density residential developments and recreational uses. To the immediate east of the Site is a slope feature maintained by HyD while to the further east is Hiram’s Highway; and to the immediate north and south are private gardens of the nearby houses.

9. Planning Intention

The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

10. Comments from Relevant Government Departments

All government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices VI and VII** respectively.

11. Public Comment Received During Statutory Publication Period

On 31.12.2024, the application was published for public inspection. No public comment was received during the statutory public inspection period.

12. Planning Considerations and Assessments

- 12.1 The application is for a renewal of planning approval for temporary private swimming pool and garden for a period of three years at the Site, which falls within an area zoned “GB” on the OZP (**Plan A-1**). The planning intention of “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. Although the swimming pool and garden under the application are not in line with the planning intention of the “GB” zone, the long-term planning intention of the “GB” zone would not be jeopardised, given their temporary nature.
- 12.2 The Site is situated in an area of miscellaneous rural fringe landscape character predominated by low-rise residential houses and tree groups close to Hiram’s Highway. The applied use is considered not incompatible with the surrounding setting and landscape character. As the Site has already developed and there will be no change in nature of the use and development parameters are largely the same, further significant landscape impact arising from the renewal application is not anticipated. The Chief Town Planner/Urban Design & Landscape of Planning Department and Director of Agriculture, Fisheries and Conservation have no comment on the application.
- 12.3 There is a slope feature maintained by HyD to the immediate east of the Site. The applicant suggests that the GPRR submitted in previous approved application, which concluded that the applied use is considered to be feasible from geotechnical point of view and would unlikely pose particular problems to the surrounding areas (**Appendix Ia**), would still be applicable in current application. In this regard, the Head of Geotechnical Engineering Office of Civil Engineering and Development Department and Chief Highway Engineer/New Territories East of HyD have no objection to/no comment on the application from geotechnical and highways maintenance perspectives respectively. Regarding the comments from Lands Department (LandsD) and Buildings Department (BD) on unlawful occupation of GL and unauthorised building works, the applicant will follow up with LandsD on the Short Term Waiver and Short Term Tenancy applications, and an Authorised Person will be appointed to follow up with the building works in accordance with the requirements under the Buildings Ordinance. District Lands Officer/Sai Kung of LandsD and Chief Building Surveyor/New Territories East (2) and Rail of BD have no objection to the application.
- 12.4 Since the swimming pool and garden are for private use and small in scale, adverse traffic, drainage, sewerage and environmental impacts are not anticipated. Other relevant departments consulted including the Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland South of Drainage Services Department, Chief Engineer/Construction of Water Supplies Department and Director of Fire Services have no objection to or no adverse comment on the application. In this regard, the application is generally in line with TPB PG-No. 10.
- 12.5 The application is generally in line with TPB PG-No. 34D in that there has been no material change in planning circumstances since the approval of the last application;

no adverse planning implication arising from the renewal application is anticipated; planning condition under previous approval has been complied with; and the three years approval period sought, which is same as the previous approval is reasonable.

- 12.6 The Site is the subject of two previous approved applications for the same use. There has been no change in planning circumstances at the Site and in the surroundings since the previous approval was granted. Approval of the application is in line with the Committee's previous decisions.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department has no objection to the application.
- 13.2 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 19.2.2025 until 18.2.2028. The recommended advisory clauses are attached at **Appendix VII**.
- 13.3 There is no strong reason to recommend rejection of the application.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form received on 20.12.2024
Appendix Ia	Planning Statement and SI received on 23.12.2024
Appendix Ib	FI received on 07.02.2025
Appendix II	Relevant extract of TPB PG-No. 10
Appendix III	Relevant extract of TPB PG-No. 34D
Appendix IV	Previous Applications
Appendix V	Similar Application
Appendix VI	Government Departments' General Comments
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Section Plan
Plan A-1	Location Plan

Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2025**