

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-TLS/63

- Applicant** : Ms Leung Kit Yee
- Site** : Government Land (GL) adjoining Lot 1143 in D.D. 253, Tseng Lan Shue, Sai Kung, New Territories
- Site Area** : About 180m²
- Plan** : Approved Tseng Lan Shue Outline Zoning Plan (OZP) No. S/SK-TLS/10
- Zonings** : “Village Type Development” (“V”) (about 140m² or 78%)
Area shown as ‘Road’ (about 40m² or 22%)
- 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 mainly zoned “V” and partly shown as ‘Road’ on the approved Tseng Lan Shue Outline Zoning Plan (OZP) No. S/SK-TLS/10 (**Plan A-1**). The Site is paved and currently used as a private garden without planning permission for the adjoining New Territories Exempted House (NTEH) (i.e. No. 24, Pak Shek Terrace in Lot 1143 in D.D. 253)(**Plan A-2**).
- 1.2 A major part of the Site (about 155m² or 86%) (coloured yellow on **Plan A-2**) has been covered by Short Term Tenancy (STT) for private garden use first granted in 1985 before the gazettal of the first statutory Tseng Lan Shue Interim Development Permission Area (IDPA) Plan No. IDPA/SK-TLS/1 on 12.10.1990. Therefore private garden within this portion of the Site may be considered as an existing use under Town Planning Ordinance. For the remaining part of the Site (about 25m² or 14%), temporary private garden for a period of three years requires planning permission from the Town Planning Board (the Board).
- 1.3 The Site is the subject of three previous applications No. A/SK-TLS/46, 53 and 58 for the same use submitted by the same applicant, which were

approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2015 and 2021. The last planning permission (No. A/SK-TLS/58) lapsed on 5.5.2024. Details of the previous applications are in paragraph 5 below and at **Appendix II**.

1.4 The current private garden is the same as the previously approved scheme. According to the applicant, structures within the private garden under application include a porch (2m(L) x 2m(W) x 2.5m(H)) and a canopy of (1m(L) x 1m(W) x 2.5m(H)). The location plan and site plan submitted by the applicant are at **Drawings A-1 to A-2**.

1.5 In support of the application, the applicant has submitted the Application Form with attachments, which was received on 26.3.2024 at **Appendix I**.

2. Justifications from the Applicant

The justifications put forward by the applicant in support of the application are detailed in Part 7 of the application form at **Appendix I** and summarized as follows:

- (a) the Site has been used as private garden with STT No. SX2639 granted by the District Lands Office/Sai Kung, Lands Department (DLO/SK, LandsD); and
- (b) the Site is the subject of a previous planning approval (Application No. A/SK-TLS/58) until 4.5.2024. All approval conditions have been complied with.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The Site falls entirely on GL. 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 three previous applications No. A/SK-TLS/46, 53 and 58 submitted by the same applicant for the same temporary private garden use. All three applications were approved with conditions by the Committee on a temporary basis for a period of three years between 2015 and 2021, mainly on the grounds that the long-term planning intention of the area designated as ‘Road’ would not be jeopardized and the proposed use is not incompatible with the surrounding village environment. The last planning permission (No. A/SK-TLS/58) lapsed on 5.5.2024.

- 5.2 Details of previous applications are summarised at **Appendix II** and their locations are at **Plans A-1** and **A-2**.

6. Similar Application

There is no similar application in the vicinity of the Site.

7. The Site and Its Surrounding Areas (Plans A-1 to A-3 and photos on Plans A-4a to A-4b)

- 7.1 The Site is paved, completely fenced off by wall and currently used as private garden for the adjoining 3-storey village house. It is located entirely within the village ‘environs’ (‘VE’) of Tseng Lan Shue and is accessible via Pak Shek Toi Road which links to Clear Water Bay Road.
- 7.2 The surrounding areas are mainly rural in character with clusters of village house to the south and southeast, and vegetated slopes to the north and west.

8. Planning Intentions

- 8.1 The planning intention of “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. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.
- 8.2 The area shown as ‘Road’ is to make land reservation for road works.

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 III** and **IV** respectively.

10. Public Comments Received During Statutory Publication Period

On 5.4.2024, 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 mainly zoned “V” (78%) and partly shown as ‘Road’ (22%) on the OZP. The planning intention of the “V” zone is to reflect existing and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by government projects. The area shown as ‘Road’ is to make land reservation for road works. The temporary private garden use is not in line with the planning intention of the “V” zone and the area shown as ‘Road’. As advised by DLO/SK, LandsD, there is no Small House application at the Site and the STT for private garden use will be terminated for Small House development if so required. Commissioner for Transport (C for T) and Chief Highway Engineer/New Territories East, Highways Department also advise that there is no plan/programme to implement a road nor any planned road works at the Site. Approval of the application on a temporary basis for three years could be tolerated and would not frustrate the long term planning intention of the Site.
- 11.2 The temporary private garden under application is considered not incompatible with the surrounding land uses which are partly occupied by village houses and partly vegetated slopes. 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 three previously approved applications No. A/SK-TLS/46, 53 and 58 for the same temporary use submitted by the same applicant. The last planning permission lapsed on 5.5.2024 and the Site is currently used by the applicant as private garden without valid planning permission. There has been no change in planning circumstances since the approval of the last previous application. 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 24.5.2027. The following conditions of approval and advisory clauses are also suggested for Members’ consideration:

Approval conditions

- (a) the existing boundary fence on the Site should be maintained at all times during the planning approval period; and
- (b) if the above planning condition (a) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

Advisory clauses

The recommended advisory clauses are at **Appendix IV**.

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 26.3.2024
Appendix II	Previous Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Location Plan submitted by the applicant
Drawing A-2	Site 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
MAY 2024**