

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

APPLICATION NO. A/TM-SKW/114

- Applicant** : Mr. WU Chi Man represented by Goldrich Planners and Surveyors Ltd.
- Site** : Lots 263 S.B (Part) and 268 (Part) in D.D. 385, Tai Lam Chung, Tuen Mun, New Territories
- Site Area** : About 2,170m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved So Kwun Wat Outline Zoning Plan (OZP) No. S/TM-SKW/13
- Zonings** : “Village Type Development” (“V”)
[Restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Renewal of Planning Approval for Temporary Barbecue Area for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary barbecue area for a period of 3 years at the application site (the Site) (**Plan A-1a**). According to the Notes for the “V” zone on 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 used for the applied use with valid planning permission under application No. A/TM-SKW/101 until 31.5.2022.
- 1.2 The Site is accessible via a local track leading from Tai Lam Chung Road (**Plan A-2**). According to the layout plan (**Drawing A-1**) submitted by the applicant, there are 14 existing structures (single storey, not exceeding 3m in height with a gross floor area (GFA) of about 739.07m²) for open sheds, portable toilets, canopy, lounges, kitchen, kiosk, store rooms and office. No parking space is provided and only one loading/unloading (L/UL) space for light good vehicle is provided within the Site. The operation hours of the barbecue area are from 7:00 a.m. to 11:00 p.m. daily.
- 1.3 The Site is the subject of 9 previous applications (details at paragraph 6 below).
- 1.4 The development parameters of the current application are the same as those of the last approved application No. A/TM-SKW/101 in terms of applied use, site area,

number of structures, GFA and site layout.

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

- (a) Application form received on 1.4.2022 **(Appendix I)**
- (b) Further Information (FI) received on 21.4.2022 **(Appendix Ia)**
(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 at **Appendix I**. They can be summarised as follows:

- (a) There is no Small House application within the Site for the time being. The temporary barbecue area provides a recreational outlet to serve the surrounding areas. The temporary nature of the applied use will not frustrate the long-term planning intention of the “V” zone.
- (b) The applied use is compatible with the surrounding open storages and residential uses of three-storey. In view of the restricted operation hours, existing landscaping, drainage facilities and fencing, no significant impact to the surrounding area is anticipated from the temporary small scale barbecue area.
- (c) The existing drainage facilities, septic tank and soakaway system will remain the same and be maintained as the previous approved planning application. No wastewater will be discharged into the Tai Lam Chung Nullah. The existing 43 trees within and near the Site will be properly maintained. No parking space is provided and only one loading/ unloading space for light good vehicle is provided with less than 30 minutes of loading/ unloading activities per week. The applied use would not pose adverse drainage, sewerage, landscape and traffic impacts.
- (d) The applicant has complied with all approval conditions of the previous permission regarding the submission and implementation of fire services installations proposal.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting notice at the Site and sending a registered mail to the Tuen Mun Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

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) are relevant to this application. The relevant assessment criteria are at **Appendix II**.

5. **Background**

The Site is currently not subject to planning enforcement action.

6. **Previous Applications**

- 6.1 The Site was involved in 9 previous applications (No. A/TM-SKW/42, 48, 54, 57, 61, 67, 90, 93 and 101) for the same use on temporary basis (**Plan A-1b**). Applications No. A/TM-SKW/42, 48, 54, 57, 67, 93 and 101 were approved with conditions by the Committee or the Board from 2004 to 2019 mainly on the considerations that there was no Small House application relating to the site; the applied use was not incompatible with the surrounding areas and approval of the application on a temporary basis would not frustrate the planning intention of the “V” zone; concerned departments had no adverse comment on the application; and approval of the application was considered in line with the Committee’s previous decisions on previous and similar applications. However, the permissions under applications No. A/TM-SKW/42, 48, 54 and 57 were revoked in 2005, 2007 and 2009 due to non-compliance with approval conditions.
- 6.2 Application No. A/TM-SKW/61 covering a larger site area was rejected by the Committee on 8.5.2009 as it was not in line with the planning intention of “V” zone; it was not compatible with residential dwellings in the close vicinity; there was insufficient information to demonstrate no adverse environmental and drainage impacts; and it would set an undesirable precedent. Application No. A/TM-SKW/90 was rejected by the Committee on 19.6.2015 on the ground that the applicant failed to demonstrate that the wastewater generated from the development could be properly treated and disposed of. Details of these applications are summarised at **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.3 Comparing with the last approved application No. A/TM-SKW/101, the current application is submitted by the same applicant for the same use at the same site with the same development parameters and site layout. All the time-limited approval conditions under the last planning application have been complied with and the planning permission will lapse on 31.5.2022.

7. **Similar Applications**

- 7.1 There are 5 similar applications (Application Nos. A/TM-SKW/47, 63, 66, 78 and 94) for temporary barbecue area covering basically the same site located to the immediate northeast of the Site within the same “V” zone. Applications No. A/TM-SKW/47, 63, 78 and 94 were approved by the Committee or the Board on review mainly on the considerations as those mentioned in paragraph 6.1 above. Application No. A/TM-SKW/66 was rejected by the Board on review on 5.11.2010 as the applicant failed to convince the Board that he would comply with approval conditions imposed by the Board. The permissions under Applications No. A/TM-SKW/47 and A/TM-SKW/63 were revoked due to non-compliance with approval conditions. Details of these applications are summarised at **Appendix III** and their locations are shown on **Plan A-1a**.

8. The Site and Its Surrounding Areas (Plans A-1 to A-4)

8.1 The Site is:

- (a) paved and fenced off;
- (b) occupied by temporary structures for barbecue use with valid planning permission; and
- (c) accessible via a local track leading from Tai Lam Chung Road.

8.2 The surrounding areas have the following characteristics:

- (a) to the east are open storage uses and parking of container vehicles and trailers;
- (b) to the south are mainly residential dwellings and parking of vehicles;
- (c) to the west are the Tai Lam Chung Road and Tai Lam Chung Nullah; and
- (d) to the north are open storage use, vehicle repair workshop and residential dwellings.

9. Planning Intention

The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small House 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 New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

Relevant government departments have been consulted and they 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 IV and V**.

11. Public Comment

On 19.4.2022, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

12. Planning Considerations and Assessments

12.1 The application is for renewal of the planning approval for temporary barbecue area for a period of three years at the Site zoned “V” on the OZP, which is primarily intended for development of Small House by indigenous villagers. Whilst the applied use is not entirely in line with the planning intention of the “V” zone, according to the District Lands Officer/Tuen Mun, Lands Department, there is no Small House application approved or under processing at the Site. The applied use could provide

a recreational outlet to serve the surrounding areas. Approval of the application on a temporary basis would not frustrate the long-term planning intention of the “V” zone.

- 12.2 The Site is situated in an area pre-dominated by village houses, open storages and Tai Lam Chung Nullah. The applied use is considered not incompatible with the surrounding land uses.
- 12.3 The application is generally in line with the TPB PG-No. 34D in that there has been no material change in planning circumstances since the granting of the previous approval under application No. A/TM-SKW/101; adverse planning implications arising from the renewal of the planning approval are not expected; all time-limited approval conditions under the previous approval have been complied with; all concerned government departments have no objection to or no adverse comment on the application; and the 3-year approval period sought is of the same time frame as the previous approval.
- 12.4 Relevant government departments, including Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department, Director of Fire Services and Chief Town Planner/Urban Design and Landscape of Planning Department, have no objection to or no adverse comment on the application. The applied use will unlikely create significant adverse traffic, environmental, drainage, fire safety and landscape impacts to the surrounding area. To address the technical requirements of concerned government departments, relevant approval conditions are recommend in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority.
- 12.5 The Site was involved in 7 previously approved applications for the same use on temporary basis and there are 4 similar approved applications within the same “V” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 12.6 During the statutory public inspection period, no public comment was received.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above, the Planning Department considers that the applied use could be tolerated for a further period of 3 years.
- 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 3 years and be renewed **from 1.6.2022 to 31.5.2025**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation of the barbecue area between 11:00 p.m. to 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the paving and boundary fencing on the Site shall be maintained at all times during the planning approval period;

- (c) no vehicle is allowed to queue back to or reverse onto/ from public road at any time during the planning approval period;
- (d) the existing drainage facilities shall be maintained at all times during the planning approval period;
- (e) the existing trees and landscape plantings on the Site should be maintained at all times during the planning approval period;
- (f) the submission of fire services installations proposal within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 1.12.2022;
- (g) in relation to (f) above, the implementation of fire services installations proposal within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 1.3.2023;
- (h) if any of the above planning conditions (a), (b), (c), (d), or (e) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (i) if any of the above planning conditions (f) and (g) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

[Conditions (a), (b), (d), (e), (f) and (g) are the same as the previous application No. A/TM-SKW/101; while the condition on prohibition of vehicle queuing back to the public road is newly added based on the latest comments of C for T.]

Advisory clauses

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

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

the applied use is not in line with the planning intention of the "V" zone which is primarily for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

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 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.

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 1.4.2022
Appendix Ia	FI received on 21.4.2022
Appendix II	Relevant Extracts of Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use of Development (TPB-PG No. 34D)
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Drainage Plan
Drawing A-3	Tree Preservation Proposal
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a to 4c	Site Photos

PLANNING DEPARTMENT
May 2022