

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-CWBS/33

- Applicant** : SHING Wai Leung represented by Creative Engineering Consultancy Limited
- Site** : Government Land in D.D. 225, Sheung Sze Wan, Sai Kung, New Territories
- Site Area** : About 11.2m²
- Land Status** : Government Land
- Plan** : Approved Clear Water Bay Peninsula South Outline Zoning Plan (OZP) No. S/SK-CWBS/2
- Zonings** : “Green Belt” (“GB”)
[Any filling or excavation of land shall not be undertaken or continued (except public works coordinated or implemented by Government, and maintenance, repair or rebuilding works) without permission from the Town Planning Board]
- Application** : Proposed Utility Installation for Private Project (Surface Drainage System) and associated Excavation of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed utility installation for private project (surface drainage system) and the associated excavation of land at the application site (the Site) (**Plan A-1**). The proposed surface drainage system, falling within the “Village Type Development” (“V”) zone and “GB” zone on the approved Clear Water Bay Peninsula South OZP No. S/SK-CWBS/2, is to facilitate the development of a New Territories Exempted House (NTEH) at the Lots No. 676 & 679 s.A in D.D. 225 within the “V” zone. The portion of the proposed surface drainage system which falls within “V” zone is regarded as incidental to and directly related and ancillary to the permitted NTEH development. According to the Notes of the OZP, ‘Utility Installation for Private Project’ and the associated excavation of land within “GB” zone require planning permission from the Town Planning Board (the Board).

- 1.2 The proposed surface drainage system involves a set of surface drainage channels and outlet with a total length of 87.7m and diameter of 225mm-600mm wide u-channels and excavation of land up to 0.8m in depth. The portion of the drainage channel which falls within the “GB” zone is about 14m in length (11.2m²). The surface runoff will be discharged to an existing stream to the northwest of the Site. Details of the proposed system are shown in **Drawings A-1 to A-3**.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form dated 24.6.2019 and attachments (**Appendix I**)
 - (b) Further Information (FI) from the applicant received (**Appendix Ia**) on 5.8.2019 and 8.8.2019 (accepted and exempted from publication)

2. Justification from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form and FI submission at **Appendices I and Ia**. They can be summarized as follows:

- (a) the applicant is an indigenous villager of Sheung Sze Wan Village and whose application for NTEH at Lots No. 676 & 679 s.A was approved on 1.6.2010. Site formation works for the subject NTEH was approved by the Buildings Department in 2012. The stormwater discharge was proposed to be diverted to the existing drainage system to the southeast of the Site. Since more NTEHs were built in the village, the existing drainage system would possibly reach its maximum capacity. Therefore, a new surface drainage channel to the existing stream is proposed as an alternative;
- (b) the proposed surface drainage channel could relieve the pressure on the existing drainage system by providing alternative outlet, especially during extreme weather. In addition, as more NTEHs will be built in the vicinity of the Site, the proposed surface drainage channel is capable to divert the surface runoff from these NTEH sites to the existing stream. The applicant will be responsible for the construction and maintenance of the proposed surface drainage channel;
- (c) the proposed drainage works is designed to connect the surface runoffs from the NTEH to the nearest existing stream. The proposed alignment is entirely on government land and is the shortest route to the existing stream that would not encroach into the adjacent private lots and would cause the least disturbance to the “GB” zone and surrounding environment; and
- (d) the location and direction of the outlet between the proposed channel and the existing stream could be adjusted to minimise the disturbance to the natural river bank. Excavation and clearance of vegetation will only be limited to the width of the proposed drainage channel and outlet.

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

As the Site involves government land only, the “owner’s consent/notification” 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. 31) are not applicable to the application.

4. **Town Planning Board Guidelines**

Town Planning Board Guidelines for Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10) are relevant to this application (**Appendix II**).

5. **Previous Application**

There is no previous application covering the Site.

6. **Similar Application**

There is no similar application for ‘Utility Installation for Private Project’ within the same “GB” zone and no similar application for excavation of land within the same “GB” zone on the OZP.

7. **The Site and Its Surrounding Areas** (Plans A-1 to A-3 and Photos on Plan A-4)

7.1 The Site:

- (a) is currently vacant and forms part of the natural slope covered with grass, shrubs and trees;
- (b) connects to the natural streamcourse to the further northeast of the approved NTEH at Lots 676 & 679 s.A; and
- (c) is accessible from Sheung Sze Wan Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate surrounding is naturally vegetated slopes; and
- (b) to its further northeast and east are clusters of village houses of Sheung Sze Wan.

8. **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.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application are summarised as follows:

Land Administration

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

- (a) the proposed drainage works is located on Lots No. 676 and 679 S.A (“the Lots”) and the adjoining government land in D.D. 225. Lots No. 676 and 679 S.A in D.D. 225 are held under the Block Government Lease demised for agricultural use. The Site falls completely within the village environs of Sheung Sze Wan in Hang Hau Heung which is a recognized village under the New Territories Small House Policy. The Small House application at the Lots has been approved and a Building Licence No. 2196 was issued to the Lots on 1.6.2010;
- (b) prior written permission should be obtained from relevant departments and DLO/SK before commencement of any works on government land. No tree felling/trimming on government land is allowed unless prior written approval from relevant departments and this office is obtained; and
- (c) notwithstanding the planning permission may be given, there is no guarantee that permission for the proposed utility installation (i.e. surface drainage system) on government land will be given and the extent of government land will be subject to approval.

Drainage

9.1.2 Comments of the Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD):

- (a) no adverse comment on the application from drainage maintenance viewpoint;
- (b) the proposed channels/drains should be connected to the existing channel/streamcourse at acute angles for better hydraulic performance;
- (c) all stormwater drainage facilities to be completed under the proposed development, whether within private lots or government land, shall be solely maintained by the applicant and the successive owner(s) of the proposed development at their own resources; and

- (d) the Site is in the vicinity of an existing streamcourse. All the proposed works in the vicinity of the streamcourse should not create any adverse drainage impacts, both during and after construction. Proposed flooding mitigation measures if necessary shall be provided at the resources of the applicant to DSD's satisfaction. The applicant should also be reminded to minimise the possible adverse environmental impacts on the existing streamcourse in his design and during construction.

Environment

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

- (a) in view of the small scale of the proposed development, the application is unlikely to cause major pollution; and
- (b) the applicant is reminded to follow the requirements of the Practice Note for Professional Person (ProPECC) PN5/93 "Drainage Plan subject to Comment by the Environmental Protection Department" and are duly certified by an Authorised Person.

Landscape

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

- (a) no objection to the captioned application; and
- (b) the site area is less than 60m². With reference to the planning statement and our recent site visit dated 5.7.2019, there is no major vegetation identified within the Site. Significant adverse landscape impact to the Site and its surrounding due to the proposed use is not anticipated. With the consideration of limited space of the Site, it is not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.

Buildings Matters

9.1.5 Comments of the Chief Building Surveyor/New Territories East 2 & Rail, Buildings Department (CBS/NTE2 & Rail, BD):

- (a) no comment under Buildings Ordinance;
- (b) all non-exempted ancillary site formation and/or communal drainage works are subject to compliance with Buildings Ordinance; and
- (c) Authorised Person must be appointed for the site formation and communal drainage works referred to (b) above.

Geotechnical

9.1.6 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H of GEO of CEDD):

- (a) no in-principle geotechnical objection to the application; and
- (b) the applicant is reminded to make necessary submissions to District Lands Office and/or the Building Authority for approval if the natural slope could affect or be affected by the proposed work (if any) in accordance with the provisions of the Buildings Ordinance.

Risk Aspect

9.1.7 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) no comment on the application; and
- (b) in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the mentioned applications should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

9.2 The following government departments have no objection to or comment on the application:

- (a) Commissioner for Transport;
- (b) Director of Agriculture, Fisheries and Conservation;
- (c) Chief Engineer/Development(2), Water Supplies Department;
- (d) Chief Engineer (Works), Home Affairs Department;
- (e) Chief Highway Engineer/ New Territories East, Highways Department;
- (f) District Officer/Sai Kung, Home Affairs Department; and
- (g) Director of Fire Services.

10. Public Comment Received During Statutory Publication Period

On 2.7.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 23.7.2019, two public comments were received (**Appendix III**). Designing Hong Kong Limited objects to the application mainly on the grounds that the proposed development is not in line with the planning intention of “GB” zone; the applicant fails to demonstrate that the proposed development would have no adverse environmental impact on the surrounding areas; more appropriate to build the private utility installation within “V” zone for more efficient use of land; and setting an undesirable precedent. The other commenter raises concerns that there is land available within “V” zone in the area and there is no justification to sacrifice government land within “GB” zone for private project.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed surface drainage system and excavation of land for the approved NTEH development at Lots No. 676 and 679 s.A. The proposed drainage system and associated excavation of land fall largely within the “V” zone with a minor portion (about 19% of the system) falling within the “GB” zone which requires planning permission from the Board. The “GB” zone is intended 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 “GB” zone. The proposed surface drainage system and excavation of land may not be in line with the planning intention of “GB” zone, the drainage channel is considered an essential facility supporting the NTEH development at Lots No. 676 and 679 s.A which was approved by LandsD with a Building Licence issued on 1.6.2010.
- 11.2 As claimed by the applicant, the stormwater was originally proposed to be diverted to the existing drainage system under the submission of site formation works for the NTEH development approved by BD. However, since more NTEHs were and will be built in the vicinity of the Site, the surface drainage system connecting to an existing stream is proposed as an alternative to discharge the stormwater for prevention of overwhelming the existing drainage system. CE/MS of DSD has no adverse comments on the application from drainage maintenance viewpoint.
- 11.3 The “GB” portion of the proposed surface drainage system involves an area of about 11.2m² and the associated land excavation of about 0.8m. Given the small scale of the proposed works, no significant landscape impact is anticipated from the proposal. CTP/UD&L of PlanD has no objection to the application from landscape planning point of view. Relevant departments, including DEP, H(GEO) of CEDD and DAFC, have no objection to or no adverse comment on the application from environmental, slope stability or ecological aspects.
- 11.4 Regarding the public comments objecting to the application, the planning assessments in paragraphs 11.1 to 11.3 above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until **16.8.2023**, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following advisory clauses are suggested for Members' consideration:

Advisory Clauses

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

- 12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:
- (a) the proposed surface drainage system is not in line with the planning intention of the "GB" zone which 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. There are no strong planning grounds and justifications provided in the submission for a departure from the planning intention; and
 - (b) approval of the application would set an undesirable precedent for other similar applications within the "GB" zone. The cumulative effect of approving similar applications will result in encroachment of Green Belt area by development and a general degradation of the natural environment.

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.

Attachments

Appendix I	Application form received on 24.6.2019
Appendix Ia	Further Information from the applicant received on 5.8.2019 and 8.8.2019
Appendix II	Town Planning Board Guidelines for Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10)
Appendix III	Public Comments
Appendix IV	Advisory Clauses
Drawings A-1 and A-2	Location Plan submitted by the applicant
Drawing A-3	Details of the proposed surface drainage system 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
AUGUST 2019**