

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-PK/252

- Applicant** : Development Centre Limited
- Site** : Lots No. 502 S.C, 502 S.D and 502 S.F in D.D. 221, Fu Tei Hau, Sai Kung, New Territories
- Site Area** : About 809m²
- 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** : “Green Belt” (“GB”)
- [Any filling or excavation of land shall not be undertaken or continued (except public works co-ordinated or implemented by Government, and maintenance, repair or rebuilding works) without the permission from the Town Planning Board.]
- Application** : Proposed Excavation of Land and Filling of Land for Permitted Agricultural Use

1 The Proposal

- 1.1 The applicant seeks planning permission for proposed excavation of land (up to 1.5m in depth) and filling of land (up to 0.5m in height) for permitted agricultural use on the application site (the Site). According to the Notes of OZP, ‘Agricultural Use’ is always permitted within the “GB” zone. However, the proposed excavation of land and filling of land for agricultural use requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site involves excavation of an area of 10m² with a depth not exceeding 1.5m for a proposed agricultural structure¹ (4.5m high) for storage of agricultural tools,

¹ The applicant is required to submit a separate and formal application for erection of the proposed agricultural structure to District Lands Officer/Sai Kung, Lands Department through Director of Agriculture, Fisheries and Conservation.

implements, seeds, fertilizer and farm produce. The rest of the area (i.e. about 799m²) involves filling of land with a height of about 0.3m to 0.5m for agricultural use.

- 1.3 In support of the application, the applicant has submitted the application form on 20.6.2019 (**Appendix I**). The plans submitted by the applicant is at **Drawings A-1 to A-3**.

2 Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form at **Appendix I** and summarized as follows:

- (a) the proposed excavation of land is mostly to facilitate the construction of the agricultural structure for the storage of agricultural tools, implements, seeds, fertilizer and farm produce;
- (b) the proposed filling of land of about 0.3m to 0.5m is required to improve soil fertility; and
- (c) the proposed development falls within existing zoning intention and is in line with government policy.

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

The applicant is the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4 Town Planning Board Guidelines

Town Planning Board Guidelines for Application for Development within “Green Belt” Zone (TPB PG-No. 10) are relevant to this application (**Appendix II**).

5 Previous Application

There is no previous application at the Site.

6 Similar Application

There is no similar application within the “GB” zone on the OZP.

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

7.1 The Site is:

- (a) mainly covered by grass;
- (b) moderately sloping downhill from north to south; and
- (c) accessible via an access track leading to Sha Kok Mei Village to its south.

7.2 The surrounding areas have the following characteristics:

- (a) to its north, east and south is fallow agricultural land covered by grass and vegetation;
- (b) to its immediate west is an active enforcement case (No. E/SK-PK/84) for unauthorized excavation and filling of land (**Plan A-2**). Enforcement Notice and Reinstatement Notice were issued on 27.6.2018 and 22.11.2018 respectively;
- (c) to its further west is an organic farm and Long Mei Village;
- (d) to its further north is mainly woodland zoned “Conservation Area” on the OZP; and
- (e) to its south is a natural streamcourse and across the streamcourse is Sha Kok Mei Village.

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 and/or the public comments received are summarized as follows:

Land Administration

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

- (a) the Site includes Lots No. 502 S.C, 502 S.D and 502 S.F all in D.D. 221 (“the Lots”);

- (b) the Lots are Old Schedule agricultural lots governed by Block Government Lease. Under the terms of the lease, the lessee must obtain approval of government before any buildings or structures of any description are erected or constructed on the land. If the buildings or structures are to be used for agricultural purposes, a Letter of Approval may be issued by his office through Director of Agriculture, Fisheries and Conservation (DAFC);
- (c) if planning permission for the subject proposal is given, the applicant is required to submit a formal application for erection of the proposed agricultural structure through DAFC.

Environment

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

- (a) there is no record of environmental complaint found in the past three years at the Site; and
- (b) in view of the small scale and nature of the proposed development, the proposed development will unlikely result in any potential adverse environmental impacts. Hence, he has no objection to the application.

Landscape

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

- (a) with reference to the aerial photo of 2015, the Site is located in an area of rural landscape character dominated by vegetated area with tree groups and some scattered village houses. According to the site photos taken in July 2019, the Site is mainly covered with vegetation, which seems to be self-seeded overgrown of shrub and groundcover. The proposed application is not incompatible to the landscape character of the surrounding environment. Significant changes and disturbance to the existing landscape resources are not anticipated. Therefore, she has no objection to the application from landscape planning point of view; and
- (b) in view of the nature of the proposed works, it is considered not necessary to impose any landscape-related condition should the application be approved by the Board.

Drainage

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

- (a) provided that adequate stormwater drainage collection and disposal facilities would be provided in connection with the proposed use to deal with the surface runoff of the Site or the same flowing on to the Site from the adjacent areas without causing any adverse drainage impact to the areas or nuisance to the adjoining areas, he has no in-principle objection to the application from a drainage maintenance viewpoint; and
- (b) according to DSD's records, the Site is within an area where neither stormwater nor sewerage connection maintained by DSD is available in the vicinity at present.

Nature Conservation

9.1.5 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

the Site possesses a potential for agricultural rehabilitation. On 12.12.2018, DAFC has received an application for a Letter of Approval (LoA) to erect an agricultural structure. The applicant proposed to operate an organic farm on Lots 502 S.D and 502 S.F in D.D. 221 in Sai Kung and erect an agricultural storeroom. Since the proposed structure is directly related to the operation of the organic farm, DAFC rendered its support to the application for LoA from agricultural point of view and forwarded the application to LandsD on 11.1.2019 for further processing and approval. On the basis of the available information, he has no strong view against this planning application from agricultural point of view.

Water Supply

9.1.6 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD):

- (a) no objection to the application; and
- (b) for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

Local Views

9.1.7 Comments of the District Officer/Sai Kung, Home Affairs Department (DO/SK, HAD):

- (a) no comment on the application; and
- (b) local views should be fully considered.

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

- (a) Chief Engineer (Works), Home Affairs Department (CE(Works), HAD);
- (b) Commissioner for Transport (C for T);
- (c) Director of Fire Services (D of FS); and
- (d) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD).

10 Public Comments Received During Statutory Publication Period

On 5.7.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 26.7.2019, eight public comments from Sai Kung Rural Committee, a Sai Kung District Council member, Village Representatives of Sha Kok Mei, Designing Hong Kong Limited, Kadoorie Farm & Botanic Garden Corporation, World Wide Fund For Nature Hong Kong and two individuals of the public were received. Seven commenters object to the application on the grounds that the proposed development is not in line with the planning intention of the “GB” zone; approval of the case would set an undesirable precedent; the application is not for genuine agricultural purposes; the agricultural methods at the Site would create adverse environmental and ecological impacts as well as noise and nuisance; and the Site is currently being used as a landing spot for paragliding, which would create safety issues if the application is approved (**Appendix III**).

11 Planning Considerations and Assessments

11.1 The applicant seeks planning permission for excavation of land (up to 1.5m in depth) for a proposed agricultural structure of 4.5m in height (which is subject to separate approval by LandsD and AFCD), and filling of land (up to 0.5m in height) to improve soil fertility for agricultural use at the Site. The agricultural use is always permitted in the “GB” zone on the OZP. The planning intention of the “GB” zone is to define 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. DAFC advises that the Site has potential for agricultural rehabilitation and has no strong view against the application.

- 11.2 The proposed excavation and filling of land for the permitted agricultural use is considered not incompatible with the surrounding area which is predominantly fallow agricultural land covered by grass and vegetation. It would not cause adverse landscape impacts on the Site and the surrounding areas. CTP/UD&L has no objection to the application from landscape planning perspective. Relevant departments also have no comment on/objection to the application.
- 11.3 As the proposed excavation and filling works at the Site is for agricultural purpose and concerned departments have raised no objection to the proposed works, approval of the application would not set an undesirable precedent for similar applications within the “GB” zone.
- 11.4 Public comments objecting to the application are mainly on the grounds that the proposed development is not in line with the planning intention of the “GB” zone; approval of the case would set an undesirable precedent; and would create safety issues as well as adverse environmental, ecological and noise effects etc. In this regard, the assessments in paragraphs 10.1 to 10.3 above are relevant.

12 Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, 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 recommended advisory clauses are attached 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 date when the validity of the permission should expire.
- 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 received on 20.6.2019
Appendix II	Town Planning Board Guidelines for Application for Development within “Green Belt” Zone (TPB PG-No. 10)
Appendix III	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1 to A-3	Layout Plans 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**