

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-CWBS/32

- Applicant** : LAU Hon Kei represented by Evergain Construction Limited
- Site** : Government Land in D.D. 225, Leung Fai Tin, Clear Water Bay, Sai Kung, New Territories
- Site Area** : About 4.625m²
- Land Status** : Government Land
- Plan** : Approved Clear Water Bay Peninsula South Outline Zoning Plan (OZP) No. S/SK-CWBS/2
- Zonings** : “Green Belt” (“GB”)
- Application** : Proposed Utility Installation for Private Project (Septic Tank) and associated Excavation of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed utility installation for private project (septic tank) and the associated excavation of land at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for “GB” zone, ‘Utility Installation for Private Project’ and the associated excavation of land require planning permission from the Town Planning Board (the Board).
- 1.2 The proposed excavation of land is about 2m deep to accommodate the proposed septic tank of about 4.625m² (**Drawing A-1**).
- 1.3 The proposed septic tank will serve the New Territories Exempted House (Small House) at D.D. 225 Lot 907 which is the subject of a planning application No. A/DPA/SK-CWBS/3 approved by the Rural and New Town Planning Committee (the Committee) on 11.7.2003. The application did not indicate the location and provision of the septic tank at that time and there was no approval condition on the requirement of septic tank provision.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form dated 6.6.2019 and attachments (**Appendix I**)

- (b) Further Information (FI) (1) from the applicant (**Appendix Ia**) received on 26.7.2019 (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 10 of the application form and the FI at **Appendices I** and **Ia**. They can be summarized as follows:

- (a) the location of septic tank for the Small House development at D.D. 225 Lot 907, which was approved by Lands Department (LandsD) in July 2013, encroaches into the lot of the Small House development at D.D. 225 Lot 917. The area to the west of Small House development at D.D. 225 Lot 917 has been occupied by a cable draw pit and a septic tank;
- (b) the area to the north of D.D. 225 Lot 917 within “V” zone are private lots with other private septic tanks and retaining walls and the area to the further north forms part of the natural slope of the “GB” zone. These areas have a level difference of 3 to 4m higher than the Small House development at D.D. 225 Lot 907, the proposed septic tank cannot be located to the north;
- (c) the area to the south of the Small House development at D.D. 225 Lot 907 falls within “GB” zone with level difference and there is a natural streamcourse cutting from the south to the east, the proposed septic tank cannot be located to the south; and
- (d) as installation of septic tank should be avoided within 15m distance from the natural streamcourse, the Site is close to the location of septic tank approved by LandsD and more appropriate location for the proposed installation of septic tank to serve the village house at D.D. 225 Lot 907 (**Drawing A-1**).

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 within the “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) forms part of the natural slope covered with grass, shrubs and trees;
- (b) is in close proximity west of the village house at D.D. 225 Lot 907 which falls mainly within “Village Type Development” (“V”) zone and partly within “GB” zone;
- (c) is located in the fringe of the “GB” zone to the west of Leung Fai Tin and Ha Yeung; and
- (d) is accessible from Leung Fai Tin Upper Road via an access road.

7.2 The surrounding areas have the following characteristics:

- (a) to its northeast and east are clusters of village houses of Ha Yeung (**Plan A-1**); and
- (b) to its further southeast is a natural streamcourse.

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) Small House Grant by Exchange at Lot No. 907 in D.D. 225 (“the Lot”) was approved by the District Lands Office Conference on 20.10.2004 and the New Grant No. 20097 under which the Lot is held was executed on 16.8.2005; and

- (b) an application for re-location of the septic tank and soakaway pit system for the small house at the Lot was received by his office on 21.7.2017 and the location under application was similar to that of the subject S.16 application. The said re-location application has not been approved by his office.

Drainage

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

the Site is currently not covered by DSD public sewerage networks. The requirements related to sewage treatment/disposal are subject to the views of EPD.

Environment

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

- (a) major environmental damage from the proposed use is unlikely; and
- (b) on the design and construction of septic tank, 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 Authorized 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 5m². With reference to the planning statement and our recent site visit dated 17.6.2019, only two small trees of common species are identified adjacent to the proposed septic tank. Significant adverse landscape impact to the Site and 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.

Traffic

9.1.6 Comments of the Commissioner for Transport (C for T):

- (a) no in-principle objection to the application from traffic engineering viewpoint; and
- (b) the access road leading to the Site is not managed by the Transport Department. The status of the road should be checked with the lands authority. The management and maintenance responsibilities of the same road should be clarified with the relevant lands and maintenance authorities accordingly.

Others

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.

9.1.8 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) it is noted that proposed septic tank is located at the toe of a natural slope. The applicant is reminded to make necessary submissions to DLO 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.

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

- (a) Chief Engineer/Development(2), Water Supplies Department;
- (b) Director of Agriculture, Fisheries and Conservation;
- (c) Chief Engineer (Works), Home Affairs Department;
- (d) District Officer/Sai Kung, Home Affairs Department; and
- (e) Director of Fire Services.

10. Public Comment Received During Statutory Publication Period

On 14.6.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 5.7.2019, two public comments from The Hong Kong Bird Watching Society and Designing Hong Kong Limited, were received. They object to the application mainly on the grounds that the proposed development is not in line with the planning intention of “GB” zone; no strong justification to construct the proposed septic tank while the subject small house to be served has already been built; the applicant fails to demonstrate that the proposed development would have no landscape impact on the surrounding areas; more appropriate to build the private utility installation within “V” zone for more efficient use of land; the proposed septic tank would cause adverse sewerage impacts, potentially deteriorate the water quality of the nearby watercourse and lead to direct loss of natural features; and setting an undesirable precedent.

11. Planning Considerations and Assessments

11.1 The application is for proposed utility installation for private project (septic tank) and its associated excavation of land. The Site falls within “GB” zone, which 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 general presumption against development within “GB” zone. Although the proposed utility installation is not in line with the planning intention of the “GB” zone, it is located at the fringe of “GB” zone and is considered a needed and essential ancillary facility for the Small House development at Lot 907 in D.D. 225 which mainly falls within “V” zone and partly within “GB” zone and was approved by the Committee on 7.11.2003. As claimed by the applicant, the location of septic tank for the Small House development at D.D. 225 Lot 907, which was approved by LandsD in July 2013, encroaches into the lot of the Small House development at D.D. 225 Lot 917 while the area to its west has been occupied by a cable draw pit and a septic tank. Due to site constraints in the area to the north and the south of the Small House development at D.D. 225 Lot 907 including level difference and 15m distance away from the natural streamcourse, the Site is an appropriate nearby location for the proposed installation of septic tank to serve the Small House (**Drawing A-1**).

11.2 The proposed utility installation (about 4.625m²) and the associated land excavation (about 2m) is small in scale and situated at the toe of a natural slope covered by vegetation. The proposed utility installation is considered to be generally in line with the TPB Guidelines in that it would not involve any

extensive clearance of existing natural vegetation or cause disruption to the existing landscape features and the character of the area. CTP/UD&L of PlanD has no objection to the application as no significant adverse landscape impact to the Site and surrounding is envisaged. Relevant departments, including DEP, CE/MS of DSD, H(GEO) of CEDD and DAFC, have no objection to or no comment on the application from environmental, drainage, slope stability or ecological aspects.

- 11.3 The application is unlikely to set an undesirable precedent for similar application within the “GB” zone. The justifications provided by the applicant demonstrate the relocation reasons and site constraints in the surrounding to install the septic tank for the Small House development at D.D. 225 Lot 907. The application is considered generally in line with the relevant criteria of the TPB PG-No. 10 and shall warrant sympathetic consideration.
- 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 **2.8.2023**, 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**.

- 12.2 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members’ reference:
- (a) the proposed utility installation of septic tank 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 6.6.2019 |
| Appendix Ia | Further Information (1) from the applicant received on 26.7.2019 |
| 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 |
| Drawing A-1 | Location 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
AUGUST 2019**