

RNTPC Paper No. A/SK-CWBN/77A
For Consideration by the
Rural and New Town
Planning Committee
on 6.12.2024

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-CWBN/77

- Applicant** : Somewhere Limited (formerly known as Ringlet Global Limited)
represented by KTA Planning Limited
- Sites** : Lots 19 S.C (Part), 19 S.D (Part), 19 RP (Part), 20 S.C (Part), 28 (Part), 29
(Part) and 30 (Part) in D.D. 238, Clear Water Bay, Sai Kung, New
Territories
- Site Area** : About 213.52m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Clear Water Bay Peninsula North Outline Zoning Plan (OZP)
No. S/SK-CWBN/6
- Zoning** : “Conservation Area” (“CA”)
- Application** : Excavation and Filling of Land for Permitted Agricultural Use

1. The Proposal

- 1.1 The applicant seeks planning permission to regularise the excavation and filling of land for permitted agricultural use at the application sites (the Sites), which fall within an area zoned “CA” on the approved Clear Water Bay Peninsula North OZP No. S/SK-CWBN/6 (**Plan A-1**). According to the Notes of the OZP, while ‘Agricultural Use (other than Plant Nursery)’ use is always permitted within “CA” zone, excavation and filling of land for agricultural use require planning permission from the Town Planning Board (the Board).
- 1.2 The Sites are located in three scattered portions of an existing organic farm namely Somewhere Organic Farm (the Farm) (**Plan A-1**). According to the applicant, the excavation and filling works, which have already been taken place without valid planning permission, are to facilitate the agricultural activities of the Farm. The

Farm¹, with an area of about 6,175m², is mainly occupied by terraces with active farming activities, footpaths/internal access, resting areas, two existing ponds and some temporary structures (**Drawing A-1** and **Plan A-3a**). The excavation and filling works involve (i) excavation of about 49m² and 141m², both about 1.4m in depth for formation of upper pond and lower pond respectively; and (ii) filling of land of about 23.52m² with a depth of about 0.8m for formation of a curvilinear concrete plinth and four concrete barrels below ground (**Drawing A-2** and **Plans A-4a** to **A-4c**). The detailed parameters of the excavation and filling works are summarised in the table below.

Item associated with excavation and filling of land	Width	Length	Depth	Area (m ²)	Proportion of Farm area
	(m) (about)			(about)	(%) (about)
(1) Excavation of land					
Upper Pond [@]	5.6	14	1.4	49	0.8%
Lower Pond	12.1	13	1.4	141	2.3%
(2) Filling of land					
Concrete plinth	0.8	22.5	0.8	19	0.3%
Four concrete barrels	1.2m in diameter each		0.8	4.52	0.07%
Total area of excavation and filling of land (i.e. Site Area)				213.52	3.47%
Remarks					
@: the upper pond includes periphery filling with 50mm-thick concrete lining					

- 1.3 As detailed in the submission, the two excavated ponds help to capture rainwater running down the terraces for irrigation for seasonal crop farming and fish cultivation, while the land filling for the curvilinear concrete plinth and concrete barrels (**Drawing A-2**) would provide structural support to an existing bamboo shelter² as a resting area for the staff and visitors of the Farm. According to the applicant, vegetation and climbing plants have been added to the land filling works and the ponds were lined with natural materials to improve the landscape amenity (**Plans A-4a** and **A-4b**). The total area of excavation and filling of land of about 213.52m² accounts for less than 3.5% of the entire Farm area.
- 1.4 The applicant submitted a Drainage Impact Assessment (DIA) to support the application (**Appendix Ie**). According to the DIA, the surface runoff generated from stormwater will be soaked away or natural loss. No adverse drainage impact from the excavation and filling of land is anticipated.
- 1.5 In support of the application, the applicant has submitted the following documents:

¹ According to the information provided by the applicant (**Appendix Ic**), the Farm comprises about 5,052m² (82%) for agricultural purpose, about 475m² (8%) for footpath/internal access, about 290m² (4%) for resting areas, about 190m² (3%) for ponds and about 168m² (3%) for temporary structures for storage.

² According to the applicant, the 5.3m-tall bamboo shelter is designed as a free-standing and standalone structure placed on top of the ground surface without the need of piling foundations.

- (a) Application Form received on 25.6.2024 (Appendix I)
 - (b) Supplementary Planning Statement (SPS) received on 25.6.2024 (Appendix Ia)
 - (c) Further Information (FI) received on 22.7.2024* (Appendix Ib)
 - (d) FI received on 8.8.2024* (Appendix Ic)
 - (e) FI received on 6.9.2024* and 11.9.2024* (Appendix Id)
 - (f) FI received on 15.10.2024# (Appendix Ie)
- * accepted and exempted from publication and recounting requirements
accepted but not exempted from publication and recounting requirements

1.6 On 16.8.2024, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's request to defer making a decision on the application for two months.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the SPS and FIs at **Appendices Ib to Ie** as summarised below:

- (a) the current application aims to regularise the excavation and filling of land at the Farm to support the ongoing permitted agricultural use. The scale of excavation and filling of land accounts for a very small portion (i.e. less than 3.5%) of the Farm and is considered reasonable for agricultural purpose;
- (b) the Farm has been operating since 2018 on a non-profit making basis and is not open to the public. Only a selected group of about 10 volunteers and individuals invited by the land owner are allowed to visit the Farm to experience crop farming free of charge. No additional filling and excavation of land will take place and no adverse impact would be induced;
- (c) the two excavated ponds help capturing rainwater from the farming terraces to secure water supply for irrigation. The upper pond is currently occupied by aquatic plants on the surface for hydroponics, whereas the lower pond is slightly modified and lined for adopting fish cultivation;
- (d) minor land filling works for anchoring the concrete plinths and barrels (**Drawing A-2**) to the bamboo shelter help stabilising the terrain and prevent uplift of the shelter during strong wind. The bamboo shelter is a naturally ventilated resting area shaped and handtied with bamboo poles to showcase Cantonese bamboo scaffolding craftsmanship and is also visually compatible with the adjoining farming terraces and natural setting of the surroundings;
- (e) findings of the DIA indicated that no adverse drainage impact from the proposed excavation and filling of land is anticipated; and
- (f) the applicant would further liaise with relevant departments regarding the existing structures and necessary reinstatement works in the Farm upon approval of the planning application.

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

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

4. Background

- 4.1. According to the aerial photos (**Plans A-3b**), the Site and its adjoining areas were once occupied by patches of farming terraces with active farming activities in 1960s but had been gradually overgrown with vegetation and trees since early 1990s until 2018. Signs of agricultural activities in the terraces have been observed in some portions of the Farm since 2018.
- 4.2. The Sites and adjoining areas within the Farm are subject to planning enforcement action against unauthorized developments (UDs) involving excavation and filling of land (**Plan A-2**). Enforcement Notice was issued on 23.2.2024 requiring discontinuation of the UD. Reinstatement Notice (RN) was issued on 11.3.2024, requiring the removal of fill materials (including hard paving, gravels and concrete), backfilling the two ponds and grassing specified areas at the Sites. While the notice recipient has taken some steps to comply with RN, the Sites have not been reinstated upon expiry of the RN on 11.6.2024. Prosecution action may be followed. The Planning Authority will continue monitoring the area.

5. Previous Application

There is no previous application at the Sites.

6. Similar Application

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

7. The Sites and Their Surrounding Areas (Plans A-1 and A-2, aerial photos on Plans A-3a to A-3b, and site photos on Plans A-4 to A-4d)

7.1 The Sites:

- (a) are mainly divided into three scattered portions, including the existing upper pond (with an area of 49m²), the existing lower pond (with an area of 141m²), and the concrete curvilinear plinth and barrels formed underground below a standalone bamboo shelter;
- (b) are located within the Farm in the same “CA” zone completely fenced off from outside area. Besides the two ponds and bamboo shelter within the Sites, there are farming terraces with active agricultural activities descending from west to east (**Plans A-4c and A-4d**), footpaths/internal access, two existing

ponds and five other temporary structures for storage and other ancillary uses within the Farm; and

- (c) are accessible from Hang Hau Wing Lung Road via a local track to the northeast.

7.2 The surrounding areas are of residential urban fringe landscape character comprising mainly woodland and houses. The Sites and the Farm are surrounded by vegetated downward sloping land in the wider “CA” zone. To the further northeast are intermixed with houses, sail training facilities and sandy beach along the natural coastline of Port Shelter. To the further southwest uphill are low-rise residential developments along Hang Hau Wing Lung Road and village houses of Ng Fai Tin.

8. Planning Intention

8.1 The planning intention of the “CA” zone is to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Country Park from the adverse effects of development. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted.

8.2 As stated in the Explanatory Statement (ES) of the OZP, filling or excavation of land in “CA” zone may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment. In view of the conservation value of the area within this zone, permission from the Board is required for such activities.

9. Comments from Relevant Government Departments

All government departments consulted 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 II** and **III** respectively.

10. Public Comments Received During Statutory Publication Periods

10.1 On 12.7.2024 and 22.10.2024, the application was published for public inspection. During the statutory publication periods, a total of 45 public comments were received from individuals, including 42 supporting comments (including 29 comments in the form of standard letters) (**Appendix IVa**), two comments objecting to the application (**Appendix IVb**) and one comment expressing concern on the application (**Appendix IVc**). The major grounds of the public comments are summarised as follows:

Supporting views (42 comments)

- (a) the excavation and filling of land for the ponds and foundation of the bamboo shelter are in a reasonable scale;
- (b) the application strikes a balance between protecting natural environment and utilisation of land. The excavated ponds help providing a stable source of supply of irrigation water for agricultural purposes and store the rainwater running down the terrace during heavy rain;
- (c) the land filling works for bamboo shelter blend harmoniously with the natural surroundings while offer a naturally ventilated resting place for volunteers particularly during adverse weather;
- (d) the bamboo shelter on the Farm showcasing the craftsmanship of local artisans is a unique cultural heritage that should be preserved; and
- (e) the applicant has spent effort on maintaining the organic farm with the Hakka terraces to offer a pleasant and environmentally sustainable environment for practising organic farming;

Objecting views (2 comments)

- (f) the excavation and filling of land appears to be designed to increase the capacity of the Farm as a camping site and other operation which are not in line with the planning intention of the “CA” zone; and
- (g) vegetation clearance has been observed within the areas with tree coverage on the Farm in recent years;

Providing views (1 comment)

- (h) detailed environmental assessments should be conducted to assess the potential environmental impacts of the excavation and filling works on the surrounding natural environmental;
- (i) the excavation and filling works may cause disruption, e.g. noise, dust and traffic impact to neighbouring residential development. Mitigation measures should be provided; and
- (j) the intended agricultural activities at the Farm should be clearly defined and evaluated for compatibility with local land use plans and zoning.

11. Planning Considerations and Assessments

- 11.1 The application is to seek planning permission to regularise the excavation and filling of land for permitted agricultural use at the Sites falling within “CA” zone on the OZP (**Plan A-1**). The planning intention of the “CA” zone is to protect and

retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Country Park from the adverse effects of development. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted. While 'Agricultural Use (other than Plant Nursery)' is always permitted within the "CA" zone, excavation and filling of land requires planning permission from the Board.

- 11.2 The Sites are currently part of an active farmland in operation where excavation and filling of land already taken place without planning permission. The application is to regularise the excavation and filling works. Having a total site area of about 213.52m² (less than 3.5% of the Farm area), the excavated ponds involve a total area of about 190m² and 1.4m in depth while the filled areas involve about 23.52m² of land and 0.8m in depth. According to the applicant, the excavation and filling works are necessary to facilitate the permitted agricultural use (**Plan A-1**) where the excavation works for the two ponds help capture rainwater running down the terraces utilised for irrigation in crop farming while the land filling works for the formation of concrete plinth and barrels below ground (**Drawing A-2**) would provide structural support to an existing bamboo shelter as a naturally ventilated resting area for the staff and visitors of the Farm.
- 11.3 According to the ES of the OZP, filling or excavation of land in "CA" zone may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment. In this regard, the applicant submitted a DIA which demonstrates that no adverse drainage impact from the proposed excavation and filling of land is anticipated. The Chief Engineer/Mainland South, Drainage Services Department has no adverse comment on the application from drainage perspective in view that no insurmountable drainage impact to the Sites and the adjacent areas is identified in the DIA. Moreover, the Director of Agriculture, Fisheries and Conservation has no particular comment on the applied excavation and filling of land from nature conservation and agricultural viewpoints. In view of the small scale and the nature of the excavation and filling of land, which will unlikely cause major pollution, the Director of Environmental Protection has no objection to the application from environmental planning perspective.
- 11.4 The Sites are located in an area of residential urban fringe landscape character predominated by woodland and village houses. In view that no additional excavation and filling of land would be carried out, no adverse impact would be induced in the future. The applicant has added ground vegetation and climbing plants to the land filling works and lined the ponds with natural materials (**Plans A-4a** and **A-4b**) to improve the landscape amenity. The Chief Town Planner/Urban Design and Landscape, Planning Department has no comment on the application from landscape planning perspective and considers that the excavation and filling of land for permitted agricultural use is not incompatible with the surrounding landscape character. Other relevant government departments consulted including the Head of Geotechnical Engineering Office, Civil Engineering and Development Department have no objection to/adverse comment on the application.

- 11.5 The excavation and filling of land had already taken place without planning permission and the Sites and adjoining areas in the Farm are subject to planning enforcement action as detailed in paragraph 4 above. However, taking into consideration the special circumstances that the land excavation and filling works are small in scale and solely for permitted agricultural use on the Farm, and no further excavation and filling would be carried out, sympathetic consideration could be given to the application. Regarding the departmental comments on the existing illegal structures and building works carried out at the Farm, the applicant states that he would apply to Lands Department for a Short Term Waiver and further liaise with the concerned departments upon approval of the planning application.
- 11.6 There are 45 public comments received during the statutory publication periods with 42 supporting the application, two objecting to the application and one providing views, as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.5 above are relevant. Regarding the objecting public comments on the purpose of the excavation and filling of land in relation to the operation of the Farm, the applicant clarified that the Farm is only open exclusively to a selected group of volunteers and individuals invited by the land owner to experience crop farming and no additional filling and excavation of land would take place.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, no time clause for commencement of development is proposed as the excavation and filling works under application have already been completed. The recommended advisory clauses are attached at **Appendix III**.
- 12.3 Alternatively, should the Board decide to reject the application, the following reason for rejection is suggested for Members' reference:

the excavation and filling of land are not in line with the planning intention of the "Conservation Area" ("CA") zone which is primarily to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes. There is a general presumption against development within the "CA" zone. There is no strong planning justification in the submission for a departure from the planning intention of the "CA" zone.

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.

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 25.6.2024
Appendix Ia	SPS received on 25.6.2024
Appendix Ib	FI received on 22.7.2024
Appendix Ic	FI received on 8.8.2024
Appendix Id	FI received on 6.9.2024 and 11.9.2024
Appendix Ie	FI received on 15.10.2024
Appendix II	Government Departments' General Comments
Appendix III	Recommended Advisory Clauses
Appendices IVa to IVc	Public Comments
Drawing A-1	Layout Plan
Drawing A-2	Illustration of the Plinth and Barrels of the Bamboo Shelter
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3a to 3b	Aerial Photos
Plans A-4a to 4d	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2024**