

For Consideration by the  
RNTPC Paper No. A/SK-HC/363  
Rural and New Town  
Planning Committee  
on 24.1.2025

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**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/SK-HC/363**

- Applicant** : Kiao Investment Limited represented by Mr. LAM Yin Sang
- Site** : Lots 2 S.A, 2 S.B, 2 S.C, 2 S.D, 2 S.E and 2 RP in D.D. 210, Hing Keng Shek, Sai Kung, New Territories
- Site Area** : About 1,173m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Ho Chung Outline Zoning Plan (OZP) No. S/SK-HC/12
- Zoning** : “Green Belt” (“GB”)
- 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 site (the Site) (**Plan A-1**) which falls within an area zoned “GB” on the OZP. According to the Notes of the OZP, whilst ‘Agricultural Use’ is always permitted, any excavation and filling of land requires planning permission from the Town Planning Board (the Board). The Site comprises a large area of active farming with a silt trap at the eastern part in which the land excavation and filling works for the silt trap had been undertaken without valid planning permission (**Plans A-2 and A-4c**).
- 1.2 The Site is accessible via a local footpath branching off Hing Keng Shek Road (**Plan A-4c**). According to the applicant, an elongated strip of land within the Site (about 37m<sup>2</sup>) had already been excavated for a depth of about 1.68m and filled with concrete with thickness of 5cm for bottom and thickness of 12cm for periphery lining serving as a silt trap. Other areas within the Site are unexcavated and unpaved mainly for planting of vegetables and fruits for self-cultivation purpose (**Drawing A-2**), and no excavation and filling works are proposed at these areas.
- 1.3 Small part of the Site in Lot 2 S.A falls within the application site of another planning application (No. A/SK-HC/360) for proposed public utility installation (underground cables, poles and stays) and associated excavation of land submitted

by a different applicant to be considered by the Rural and New Town Planning Committee (the Committee) at the same meeting.

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

- |     |  |                      |
|-----|--|----------------------|
| (a) | Application form received on 9.12.2024   | <b>(Appendix I)</b>  |
| (b) | Supplementary Information (SI) received on 11.12.2024                                | <b>(Appendix Ia)</b> |
| (c) | Further information (FI) received on 2.1.2025 <sup>#</sup> and 7.1.2025 <sup>#</sup> | <b>(Appendix Ib)</b> |
| (d) | FI received on 14.1.2025 <sup>#</sup>  | <b>(Appendix Ic)</b> |
- <sup>#</sup>accepted and 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 in **Appendices I to Ic** and summarised as follows:

- (a) the excavation and filling of land for the silt trap of only about 37m<sup>2</sup> is to temporarily hold the sand and stones running from adjacent hillsides during rainy seasons to avoid them from being washed to the farming and surrounding area so as to prevent flooding in surrounding populated area (**Plan A-4b**); and
- (b) the remaining parts of the Site are unexcavated and unpaved (**Drawing A-2** and **Plan A-4a**).

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

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

## **4. Town Planning Board Guidelines**

The 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 the application. The relevant assessment criteria are detailed at **Appendix II**.

## **5. Background**

Part of the Site (Lots 2 S.D and 2 S.E in D.D. 210) (**Plan A-2**) is the subject of planning enforcement action against unauthorised excavation and filing of land. Enforcement Notice and Reinstatement Notice (RN) were issued on 29.10.2024 and 15.11.2024 respectively. The Site would be under close monitoring for compliance with RN’s requirements, and prosecution action would be undertaken as appropriate.

**6. Previous Application**

There is no previous application at the Site.

**7. Similar Application**

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

**8. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3, and site photos on Plans A-4a to A-4c)**

**8.1 The Site:**

- (a) is a fenced-off farm under active agricultural activities with a silt trap and temporary structures used as hydroponics towers and sheds for farming activities; and
- (b) is accessible by a local footpath branching off Hing Keng Shek Road.

8.2 The surrounding areas of the Sites are predominantly rural in character comprising existing village clusters of Hing Keng Shek to the northwest and woodland to the further east in area zoned “Conservation Area”.

**9. Planning Intention**

- 9.1 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.
- 9.2 As stated in the Explanatory Statement (ES) of the OZP, as excavation and filling of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, permission from the Board is required for such activity in the “GB” zone.

**10. Comments from Relevant Government Departments**

10.1 Apart from the government department as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments are provided in **Appendices III** and **IV** respectively.

10.2 The following government department has adverse comments on the application:

**Land Administration**

10.2.1 Comments of the District Lands Officer/Sai Kung, Lands Department

(DLO/SK, LandsD):

- (a) he has adverse comment on the application;
- (b) the Site falls on six private lots in D.D. 210. The Lots are Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. However, several structures were found erected at the Site; and
- (c) other detailed comments are at **Appendix III**.

## **11. Public Comment Received During Statutory Publication Period**

On 17.12.2024, the application was published for public inspection. During the statutory publication period, one public comment from the Kadoorie Farm and Botanic Garden was received concerning on the history of possible unauthorised activities or enforcement case at the Site and the violation of ‘apply first, develop later’ mechanism (**Appendix V**).

## **12. Planning Considerations and Assessments**

12.1 The application is to regularize the excavation and filling of land for permitted agricultural use at the Site zoned “GB” on the OZP (**Plan A-2**). 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. While ‘Agricultural Use’ is always permitted within the “GB” zone, planning permission for excavation and filling of land is required.

12.2 The Site is currently an active farmland in operation where excavation and filling of land already taken place at part of the Site for a silt trap without planning permission. The application is to regularise the excavation and filling works. Having an excavated and filled area of about 37m<sup>2</sup> (about 3.2% of the farm area), the subject silt trap is about 1.68m in depth and filled with concrete for thickness of 5cm for bottom and thickness of 12cm for periphery lining. According to the applicant, the silt trap is to temporarily hold the sand and stones running from adjacent hillsides during rainy seasons to avoid them from being washed to the farming and surrounding area so as to prevent flooding in surrounding populated area. According to the applicant, no additional land excavation and filling works are proposed at the Site. Chief Engineer/Mainland South, Drainage Services Department (CE/MN, DSD) has no adverse comment on the application and advised that the applicant should properly maintain and operate the silt trap to ensure proper treatment of site discharge and the Head of Geotechnical Engineering Office, Civil Engineering and Development Department also has no comment from geotechnical and slope safety point of view.

12.3 According to the ES of the OZP, filling or excavation of land in “GB” zone may

cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment. In this regards, CE/MN, DSD has no adverse comment on the application from drainage perspective. The Director of Environmental Protection has no objection to the application as adverse environmental impact from the excavation and filling works is not anticipated in view of the nature and scale of the works.

- 12.4 The Site is situated in an area of settled valley landscape and uplands and hillside landscape predominated by village houses and woodland. The Chief Town Planner/Urban Design and Landscape, Planning Department has no comment on the application from landscape planning perspective and considers that the size of the excavation and filling of land for the silt trap are not incompatible with the surrounding landscape character. According to TPB PG-No. 10, any proposed development should be compatible with the surrounding areas and should not involve extensive clearance of existing natural vegetation and affect the surrounding areas and should not involve extensive clearance of existing natural vegetation and affect the existing natural landscape. The Director of Agriculture, Fisheries and Conservation has no comment on the application from nature conservation and agricultural perspectives as the subject silt trap has already been constructed. Other relevant government departments consulted have no objection to or no adverse comment on the application. The application can be considered generally in line with TPB PG-No. 10.
- 12.5 The excavation and filling of land had already taken place without planning permission and the silt trap within the Site is subject to planning enforcement action as detailed in paragraph 5 above. However, taking into consideration the special circumstances that the land excavation and filling works are small in scale and 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 comments from DLO/SK, LandsD on the existing structures at the farm, the applicant states that he would apply to LandsD for a Short Term Waiver and further liaise with the concerned departments upon approval of the planning application.
- 12.6 Regarding the public comment concerning the unauthorised excavation and filling of land at the Site and the development mechanism, the current application serves to regularise the said excavation and filling of land for permitted agricultural use at the Site through planning application.

### **13. Planning Department's Views**

- 13.1 Based on the assessments made in paragraph 12, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, no time clause on commencement is proposed as the 'excavation and filling of land' operation under the application has already been completed. The recommended advisory clauses are attached at **Appendix IV**.
- 13.3 There is no strong reason to recommend rejection of the application.

**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.
- 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**

<b>Appendix I</b>	Application form received on 9.12.2024
<b>Appendix Ia</b>	SI received on 11.12.2024
<b>Appendix Ib</b>	FI received on 2.1.2025 and 7.1.2025
<b>Appendix Ic</b>	FI received on 14.1.2025
<b>Appendix II</b>	Relevant Extract of TPB PG-No. 10
<b>Appendix III</b>	Government Departments' General Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Appendix V</b>	Public Comment
<b>Drawings A-1 to A-3</b>	Layout Plans of the Land Excavation and Filling Works
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to A-4c</b>	Site Photos

**PLANNING DEPARTMENT  
JANUARY 2025**