

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

**APPLICATION NO. A/SK-TMT/76**

**Applicant:** Mr. AU-YEUNG Hoi Tong

**Site:** Lot 614 in D.D. 369, Tsak Yue Wu, Sai Kung

**Site Area:** 121.4m<sup>2</sup>

**Land Status:** Old Schedule Agricultural Lot held under Block Government Lease

**Plan:** Approved Tai Mong Tsai and Tsam Chuk Wan Outline Zoning Plan (OZP) No. S/SK-TMT/4

**Zoning:** “Green Belt” (“GB”)

**Application:** Proposed Excavation and Filling of Land for Removal of Existing Concrete Paving and Provision of Footpath

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed excavation and filling of land for removal of existing concrete paving and provision of a footpath at the application site (the Site). The Site falls within an area zoned “GB” on the approved Tai Mong Tsai and Tsam Chuk Wan Outline Zoning Plan (OZP) No. S/SK-TMT/4 (**Plan A-1**). According to the Notes of the OZP, provision of footpath is always permitted within the “GB” zone. However, excavation and filling of land in the “GB” zone require planning permission from the Town Planning Board (the Board).
- 1.2 The Site is currently vacant and mainly hard-paved with concrete (**Plans A-3, A-4a and A-4b**). The proposal involves excavation of an area of about 121.4m<sup>2</sup> and 0.2m in depth for removal of the existing concrete paving; and filling of land of about 91.4m<sup>2</sup> and 0.2m in height with soil and sand, and about 30m<sup>2</sup> and 0.2m in height with concrete for provision of a footpath along the southwestern boundary of the Site. The footpath portion will connect to the adjoining existing footpath and will be opened for public use, while the rest of the Site will be fenced off. The proposed excavation and filling works are anticipated to take about two weeks’ time to complete. The layout plan and the proposed excavation and land filling plan submitted by the applicant are at **Drawings A-1 and A-2**.

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

- |   |               |
|---|---------------|
| (a) Application form received on 14.1.2022          | (Appendix I)  |
| (b) Further information (FI) received on 21.4.2022* | (Appendix Ia) |
| (c) FI received on 4.5.2022*                        | (Appendix Ib) |

*\*accepted and exempted from publication and recounting requirements*

1.4 On 4.3.2022, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application for two months as requested by the applicant to allow time for preparation of FI to address departmental comments. With the FI received on 21.4.2022, the application is scheduled for consideration by the Committee at this meeting.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 10 of the application form in **Appendix I**, and FIs at **Appendices Ia and Ib**. They can be summarised as follows:

- (a) the applicant purchased the Site a few years ago and the Site had already been paved with concrete at the time of purchase. The proposed excavation of land aims to remove the existing concrete paving to reinstate the Site to its original landform. There will be no carpark, toilet, or storeroom to be built at the Site;
- (b) the proposal does not involve any tree removal and will not cause any adverse impacts on landscape, environment, traffic, water quality, drainage and slope; and
- (c) the proposal of reinstating the Site to its original landform is considered an improvement in visual and landscape terms and more in line with the planning intention of the “GB” zone than the current concrete-paved cover.

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

The applicant is the sole “current land owner”. 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 under Section 16 of the Town Planning Ordinance (TPB PG-No. 10) are relevant to this application. Relevant extracts of the Guidelines are at **Appendix II**.

## 5. **Background**

The Site is currently not subject to any active enforcement action.

## 6. **Previous Application**

There is no previous application at the Site.

## 7. **Similar Application**

There is one similar application (No. A/SK-TMT/65) for proposed excavation of land (installation of electricity meter box for permitted agricultural use and lighting) within the “GB” zone. The application was rejected by the Committee on 9.10.2020 mainly on the grounds of not in line with the planning intention of the “GB” zone and the applicant failed to provide strong planning justification to demonstrate the need for excavation of land. Details of the application is summarised in **Appendix III** and the location is shown on **Plans A-1 and A-2**.

## 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 and 4b)

8.1 The Site is:

- (a) vacant and mostly hard-paved with concrete;
- (b) within water gathering grounds (WGG); and
- (c) part of an existing access connecting between Pak Tam Road and the footpath to the village houses to its west.

8.2 The surrounding areas have the following characteristics:

- (a) predominately natural woodlands with a natural water course to its west;
- (b) to the further west and east are village houses of Tsak Yue Wu village; and
- (c) to the further north and east are Sai Kung West Country Park and Sai Kung East Country Park.

## 9. **Planning Intention**

The planning intention of “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.

## **10. Comments from Relevant Government Departments**

10.1 The following government departments have been consulted and their views are summarised as follows:

### **Land Administration**

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

- (a) no objection to the application;
- (b) the Site falls within Lot No. 614 in D.D. 369. The lot is an old schedule agricultural lot held under the Block Government Lease. The proposed excavation/filling of land within the lot does not constitute a breach of the lease; and
- (c) as no structure is proposed to be erected on the lot in the application, no approval from his office is required.

### **Landscape**

10.1.2 Comments of the Chief Town Planner/Urban Design and Landscape (CTP/UD&L):

- (a) with reference to the aerial photo of 2021, it is observed that the Site is situated in an area of settled valleys landscape character predominated by village houses, holiday village, namely the Lady MacLehose Holiday Village, roads and woodlands; and
- (b) based on the site photo dated 21.1.2022, the Site is partly occupied by a hard-paved path which connects to the adjacent development, and no tree or significant vegetation was observed within the Site. With reference to the applicant's submissions, a new footpath will be provided along with the proposed excavation and filling of land. The excavation works involve removal of the existing concrete paving only and there will be no agricultural use at the Site. There will be no tree felling and landscape impact caused by the proposal. In view of the above, the proposal is considered not incompatible with the landscape character of the surrounding environment and adverse impact arising from the proposal is not anticipated. Hence, she has no objection to the application from landscape planning perspective.

### **Water Supply**

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

- (a) no objection to the application;

- (b) according to the application, there will be only excavation and filling of land on the Site, with an area of about 121m<sup>2</sup> and a depth/height of about 0.2m. General earth materials will be used for land filling. Besides, the Site is located at a distance of less than 20m away from the nearest water course. The Site will not be used for either agriculture or vehicle parking;
- (c) the applicant should undertake the requirements as set out in 'Conditions for Working within Water Gathering Ground' (**Annex I of Appendix VI**). The applicant should provide mitigation measures to protect all excavated or filled surfaces from erosion and to prevent siltation to any water course within WGG during the earthworks. Nevertheless, the applicant should demonstrate that no material increase in pollution effect resulting from the proposal and submit to WSD for agreement;
- (d) existing water mains are in close proximity to the Site and is likely to be affected. The grantee/applicant is required to either divert or protect the water mains found on site. Details of the requirements are in **Appendix V**;
- (e) the applicant should take cognizance that the approval for the proposed excavation and filling of land should not be construed as approval for any other land proposal in future which should be presumably dealt with separately; and
- (f) the following approval condition is recommended should the application be approved by the Board:

the submission of information to demonstrate no material increase in pollution effect resulting from the proposal before commencement of the works to the satisfaction of the Director of Water Supplies or of the Board.

### **Environment**

#### 10.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) based on the applicant's submissions, the proposal will involve removal of concrete from ground surface, footpath pavement, installation of fences on private land and no agricultural use. There will be no toilet, storeroom and no use of agrochemicals as well as other items that would harm or affect water quality at the Site;
- (b) in view of the above, the proposal will unlikely cause adverse environmental impact. Therefore, he has no objection to the application; and
- (c) the applicant is advised to follow the Professional Persons Environmental Consultative Committee Practice Note (ProPECC PN) 1/94 for the handling and disposal of construction site

discharges, and implement appropriate pollution control measures to minimise any potential environmental impact arising from construction activities of the project.

### **Drainage**

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

- (a) the Site is within an area where neither stormwater nor sewerage connection maintained by DSD available in the vicinity at present; and
- (b) given that the applicant is intended to restore the natural appearance of the Site (i.e. no paved area other than a concrete footpath), he has no in-principle objection to the application from a drainage maintenance viewpoint.

### **Traffic**

10.1.6 Comments of the Commissioner for Transport:

as the traffic impact during excavation process is not significant, it is considered that the application is tolerable on traffic ground.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Director of Fire Services;
- (c) Chief Building Surveyor/Hong Kong East & Heritage, Buildings Department;
- (d) Chief Engineer (Works), Home Affairs Department (HAD);
- (e) District Officer/Sai Kung, HAD; and
- (f) Head of Geotechnical Engineering Office, Civil Engineering and Development Department.

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

On 21.1.2022, the application was published for public inspection. During the statutory publication period, a public comment from an individual was received (**Appendix IV**). The comment objects to the application mainly on the grounds that the proposal will intrude into the “GB” zone, which is a buffer of the country park, and the landscape impact arising from the proposal is uncertain.

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

12.1 The application is for proposed excavation and filling of land for removal of existing concrete paving and provision of a footpath at the Site. The Site falls

within an area zoned “GB”. 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. According to the applicant, the Site had already been paved with concrete at the time of his purchase a few years ago. It is considered that the proposal which involves excavation and filling of land for removal of the existing concrete paving and provision of a footpath along the southwestern boundary of the Site for public use does not contravene the planning intention of the “GB” zone. After the proposed works, the major part of the Site will be covered by soil and sand.

- 12.2 The Site is situated in an area of settled valleys landscape character predominated by village houses, holiday village (Lady MacLehose Holiday Village), roads and woodlands (**Plans A-1 and A-3**). The Site is partly occupied by a hard-paved path which connects to the adjacent development, and no tree or significant vegetation has been observed within the Site (**Plans A-4a and A-4b**). Noting that there will be no tree felling and landscape impact caused by the proposal, CTP/UD&L, PlanD considers that the proposal is not incompatible with the landscape character of the surrounding environment and adverse impact arising from the proposal is not anticipated. She has no objection to the application from landscape planning perspective. DAFC also has no comment on the application.
- 12.3 The Site falls within WGG. CE/C, WSD has no objection to the application. Nevertheless, the applicant is advised to undertake the requirements as set out in ‘Conditions for Working within Water Gathering Ground’ and provide mitigation measures to protect all excavated or filled surfaces from erosion and to prevent siltation to any water course within WGG during the earthworks. Should the application be approved, the approval condition recommended by WSD is suggested in paragraph 13.2 and the relevant recommended advisory clauses are detailed in **Appendix VI**. Furthermore, DEP also has no objection to the application as the proposal will unlikely cause adverse environmental impact. Other departments consulted have no objection to or no adverse comment on the application.
- 12.4 There is a similar application (No. A/SK-TMT/65) in the vicinity of the Site. The application was rejected by the Committee in 2020 on the grounds of not in line with the planning intention of “GB” zone and the applicant failed to provide strong planning justification to demonstrate the need to excavation of land. Nevertheless, the current application of proposed excavation and filling of land for removal of existing concrete paving and provision of footpath is subject to different planning circumstances. Approval of the current application is not in conflict with the previous decision of the Committee.
- 12.5 There is a public comment received during the statutory publication period objecting to the application. The departmental comments in paragraph 10 above and planning assessments in paragraphs 12.1 to 12.4 above are relevant.

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

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 10.6.2026 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 approval condition and advisory clauses are also suggested for Members' consideration:

#### Approval Condition

the submission of information to demonstrate no material increase in pollution effect resulting from the proposal before commencement of the works to the satisfaction of the Director of Water Supplies or of the Town Planning Board.

#### Advisory Clauses

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

### 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, and the date when the validity of the permission should expire.
- 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 with plans and drawings received on 14.1.2022
<b>Appendix Ia</b>	FI received on 21.4.2022
<b>Appendix Ib</b>	FI received on 4.5.2022
<b>Appendix II</b>	Town Planning Board Guidelines for Application for Development within Green Belt zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10)
<b>Appendix III</b>	Similar Application
<b>Appendix IV</b>	Public Comment
<b>Appendix V</b>	Detailed Comments
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Proposed Excavation and Land Filling Plan



<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 and 4b</b>	Site Photos

**PLANNING DEPARTMENT**  
**JUNE 2022**