

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-SSH/137

- Applicant** : CLP Power Hong Kong Limited
- Site** : Lots 686 (part) and 754 (part) in D.D. 209 and Adjoining Government Land, Kei Ling Ha Lo Wai, Shap Sz Heung, Sai Kung, New Territories
- Site Area** : About 234.2 m² (including about 222.6 m² of Government Land)
- Lease** : (i) Government Land (95%)
(ii) Block Government Lease (demised for agriculture use) (5%)
- Plan** : Approved Shap Sz Heung Outline Zoning Plan (OZP) No. S/NE-SSH/11
- Zonings** : “Coastal Protection Area” (“CPA”) (84%)
“Conservation Area” (“CA”) (16%)
- Application** : Proposed Public Utility Installation (Package Substation and Underground Cables) and Excavation of Land

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) (**Plan A-1**) for a proposed public utility installation (package substation and underground cables) and excavation of land. Majority of the Site (about 84%) falls within an area zoned “CPA” with about 16% encroaching onto an area zoned “CA” on the approved Shap Sz Heung OZP No. S/NE-SSH/11. According to the Notes of the OZP for both “CPA” and “CA” zones, ‘Public Utility Installation’ is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Remarks of the Notes for both zones also stipulate that any excavation of land will require planning permission from the Board. The Site is currently vacant, with part of it covered by a local track and a footpath. Except for encroachment onto parts of Lot 686 and 674 at the northern end, all other parts of the Site are on Government land.
- 1.2 According to the applicant, the proposed package substation with a floor area of 11.97 m² (4.96m x 2.41m) and a height of about 2.99m (1 storey) will house one 1000KVA transformer, one 11kV switchboard, one low voltage distribution board and associated accessories (at the location shown on Photo 4 on **Plan A-4a**). The proposed development will involve excavation of about 234.2 m² of land with a depth of about 1.8m (for the substation) or 1m (for the cables), which will be backfilled to the current level and reinstated to the current condition upon

completion of the development. The underground cables will be about 278m in length and 0.8m in width predominantly running along concrete paved footpath¹. The Site is accessible to Sai Sha Road via a local track. The site location plan, elevation plan of the package substation and cable routing plan submitted by the applicant are at **Drawings A-1 to A-3**.

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

- (a) Application form and attachments dated 17.6.2020 (**Appendix I**)
- (b) Supplementary information dated 19.6.2020 clarifying (b) the area of Government land involved (**Appendix Ia**)
- (c) Further information (FI) dated 14.7.2020 providing (c) responses to Environmental Protection Department's comments^ (**Appendix Ib**)
- (d) FI dated 23.7.2020 providing further justifications and (d) details of site selection ^ (**Appendix Ic**)
- (e) FI dated 29.7.2020 providing further justifications and (e) details of site selection ^ (**Appendix Id**)

(^accepted and exempted from publication and recounting requirements)

1.4 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 7.8.2020 for consideration of the application has been rescheduled, and the Town Planning Board has agreed to defer consideration of the application and the application is now 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 at **Appendix I** and FI at **Appendices Ic and Id**. They can be summarized as follows:

- (a) to enhance the security and adequacy of electricity supply in the rural area, CLP propose to implement the same planning standard for both urban and rural area, i.e. to adopt a fully underground supply system with 11kV closed ring network. The proposed package substation is suggested to be installed for alleviating the loading condition of existing supply facilities and enhancing the reliability of the electricity supply system to the vicinity villages around Kei Ling Ha Lo Wai in order to cater for the anticipated load growth of the existing services/customers and development of new Small Houses;
- (b) the proposed package substation is a specially designed electrical equipment that occupies an area of less than 12m² and has been widely adopted in village areas. It

¹ The underground cables will also run along the paved footpath within the "V" zone. However, planning permission for this section is not required as it is an always permitted use in "V" zone.

is of prefabricated design and totally enclosed to accommodate the required equipment. It is of unmanned design, easy to install, maintenance free and made of fireproof materials. The land excavation is mainly for the laying of cables, which will be backfilled to the current level and reinstated to the current condition upon completion of the development. The impact of the proposed development on the nearby areas and local traffic is minimal;

- (c) Kei Ling Ha Lo Wai is currently served by four pole mounted transformers using overhead lines for distribution (**Drawing A-4**). There is insufficient space around these pole-mounted transformers for upgrading nor replacement by alternative installations with greater capacity; and
- (d) the proposed development must be located on Government land meeting certain technical requirements. Vacant Government land within the nearby “Village Type Development” (“V”) zone has been explored in a site selection exercise but most of it would affect existing trees or the manoeuvring of vehicles on village roads. Eight sites have been further studied (**Drawing A-5**), which are considered infeasible due to being too far away from the supply area, in conflict with existing drains, located on slopes, and inaccessible by delivery crane lorry or emergency vehicles. It is also technically infeasible to lay the power cables running down the slope from Sai Sha Road to the village due to concern on slope safety.

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

The applicant is not the “current land owner” but has complied with the 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. 31A) by posting site notices, publishing newspapers notices and sending notification letter to the ‘current land owner’. Detailed information would be deposited at the meeting for Members’ inspection. As for the Government land, the “owner’s consent/notification” requirements are not applicable to the application.

4. Previous Application

There is no previous application at the Site.

5. Similar Application

There is no similar application within the same “CPA” and “CA” zones.

6. The Site and Its Surrounding Areas (Plans A-1, A-2 and photos on Plans A-4a to A-4e)

6.1 The Site is:

- (a) mostly covered by an existing paved footpath while the proposed site of substation is vacant with some groundcovers (**Photo 4 in Plan A-4**); and

(b) accessible to Sai Sha Road via a local track.

6.2 The surrounding areas are predominantly rural in character, mainly covered with scattered tree groups and village houses. To the west of the site is the village proper of Kei Ling Ha Lo Wai. To the immediate east of the Site is a local track. To the further east is the Kei Ling Ha Mangal Site of Special Scientific Interest (SSSI).

7. Planning Intention

7.1 The planning intention of the “CPA” zone is to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. It may also cover areas which serve as natural protection areas sheltering nearby developments against the effects of coastal erosion. 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 the development is an essential infrastructure project with overriding public interest may be permitted.

7.2 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 “SSSI” or 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 the development is an essential infrastructure project with overriding public interest may be permitted.

8. Comments from Relevant Government Departments

8.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

8.1.1 Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) no objection to the application;
- (b) the Site falls within unleased and unallocated Government land (UUGL) in D.D. 209; and Lots 686 and 754 in D.D.209. No Modification of Tenancy(MOT)/ building license was issued at the Site;

- (c) the proposed CLP substation with a gross floor area of 11.97m² and cable route to be erected on UUGL will be covered by the block license and no short term tenancy is necessary;
- (d) Lots 686 and 754 in D.D.209 are held under the Block Government Lease demised for agricultural purpose and without building status;
- (e) for the cable route to be erected in the private lots, CLP should seek the consent from the owner(s) prior to the commencement of the works.
- (f) should the TPB approve the application, the applicant is required to submit an Excavation Permit (EP) application to LandsD for the excavation of any Government land. However, there is no guarantee at this stage that the EP application would be approved. If the EP applications is approved by his office acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as many be imposed by his office including the payment of fee/rent and administrative fee as considered appropriate; and
- (g) there is no guarantee to the grant of a right of way to the Site or approval of the emergency vehicular access thereto.

Nature Conservation

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

- (a) he notes that the Site encroaches upon the “CPA” and “CA” zones and is in close proximity with the Kei Ling Ha Mangal SSSI. As the proposed underground cables are along existing concrete-paved footpath, and the proposed package substation is vacant, he has no strong view from nature conservation perspective; and
- (b) the applicant should be reminded to avoid impacts on vegetation along the proposed cables.

Environment

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

- (a) no adverse comment on the application from environmental planning perspective;
- (b) given that the capacity of the substation and voltage level of power lines are below the relevant threshold, the proposed works is not a designated project and there is no Environmental Impact Assessment Ordinance implication; and

- (c) the applicant is advised to implement the relevant environmental pollution control clauses during construction to minimise the potential environmental impacts in accordance with the “Recommended Pollution Control Clauses for Construction Controls” available at EPD’s website.

Landscape

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

- (a) the Site is situated in an area of settled valley landscape character surrounded by village houses and clusters of trees. It consists of existing paved footpath and vegetation such as shrubs and groundcovers. No existing tree is observed within the Site, and significant adverse impact on existing landscape resources arising from the application is not anticipated. In view that the proposed development is an essential infrastructure project for public interest and significant landscape impact arising from the proposed use is not anticipated, she has no objection to the application from the landscape planning perspective; and
- (b) in consideration of the limited space within the Site, there is insufficient space for meaningful landscaping. Should the Board approve the application, it is considered not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.

Drainage

8.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) no in-principle objection to the application from public drainage viewpoint;
- (b) the applicant should make sure that any existing flow path affected would be re-provided and ensure that the proposed works would neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, and will not cause any adverse drainage or environmental impact to the vicinity. The applicant/ owner is required to maintain such system properly and rectify the system if it is found to be inadequate or ineffective during operation. The applicant/ owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the system.

Fire Safety

8.1.6 Comments of the Director of Fire Services (D of FS):

- (a) no in-principle objection to the application subject to water supplies for firefighting and fire service installations (FSIs) being provided to his satisfaction;
- (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs for his approval. In addition, the applicant should be advised that:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy;
 - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans; and
- (c) if the proposed structure is required to comply with the Building Ordinance (Cap.123), detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.

Water Supply

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

- (a) no objection to the application; and
- (b) existing fresh water mains (**Plan A-2**) may be affected by the proposal. The applicant is required to observe the requirements as specified in the “Conditions of Working in the Vicinity of Waterworks Installations” and “Flow Chart on Procedures for Safe Working near Water Mains (**Annex A in Appendix II**).

Building Matters

8.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) no objection to the application;
- (b) noting that the proposed works/ structures to be erected fall on Government land, the said works are exempted under the Buildings Ordinance (BO) pursuant to BO 2.41(1); and

- (c) there is no submission record in BD and for any building/structures/site formation works at the Site. Shall there be any proposed building structures or proposed excavation of land which is site formation work on a leased land, the applicant's attention should be drawn to the detailed advisory comments at **Appendix II**.

Electricity

8.1.9 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) no comment on the application from electricity supply safety and reliability aspect; and
- (b) for the design and operation of electricity package substation and underground cables, CLP Power has to comply with the Electricity Ordinance and relevant statutory requirements. As the electricity package substation and underground cables are to provide electricity supply to some future developments in the vicinity, the associated electricity demand should be provided by the nearby substation as far as possible. The Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation shall be observed by the applicant and his contractors when carrying out works in the vicinity of electricity supply lines.

8.2 The following Government departments have no objection to/comment on the application:

- (a) Principal Project Coordinator/Special Duty Division, Drainage Services Department (PPC/SDD, DSD);
- (b) Commissioner for Transport (C for T);
- (c) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (d) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (e) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD); and
- (f) District Officer/Tai Po, Home Affairs Department (DO/TP, HAD).

9. Public Comment Received During Statutory Publication Period (Appendix II)

On 26.6.2020, the application was published for public inspection. During the statutory public inspection period, one public comment was received from Designing Hong Kong objecting to the application on the grounds that the proposed development is incompatible with the surrounding area; not in line with the planning intention of "CPA" and "CA" zone; within an area with high ground water levels and close to a SSSI; the excavation of land

may cause adverse drainage and environmental impacts to the adjacent area; and the approval of the application would set an undesirable precedent.

10. Planning Considerations and Assessments

- 10.1 The application is for a proposed public utility installation (package substation and underground cables) and excavation of land within the Site mostly zoned “CPA” (84%) with the remaining 16% zoned “CA” on the OZP. The proposed development will involve a land excavation of about 234 m², most of which is for the laying of underground cables (278 m in length and 0.8m in width) and will be backfilled to the current level and reinstated to the current condition upon completion of the development. The only above-ground structure is the proposed package substation with a floor area of 11.97 m² (4.96m x 2.41m) and a height of about 2.99m (1 storey). Although the proposed development is not in line with the planning intentions of the “CPA” and “CA” zones, for which there is a general presumption against development, the current application is for the enhancement of the reliability of the electricity supply system to the nearby villages and therefore can be considered as an essential infrastructure project. As the Site for the proposed package substation is currently vacant with groundcovers and the Site for the proposed cable is mainly along existing concrete-paved footpath, DAFC has no strong views on the application from nature conservation perspective.
- 10.2 The proposed package substation is a single storey structure occupying an area of 11.97 m² (with a height of 2.99m) (**Drawing A-2**). The area involved for land excavation is about 234m² which mainly covers existing footpath and areas with no significant vegetation. The development is small in scale and not entirely incompatible with the surrounding environment which is predominantly rural in character, mainly covered with scattered tree groups and village houses. CTP/UD&L of PlanD advises that significant landscape impact arising from the proposed use is not anticipated and has no objection to the application from landscape planning perspective.
- 10.3 The proposed development is an essential installation to fulfil the electricity demand and supply security for the village development at Kei Ling Ha Lo Wai. According to the applicant, the area is currently served by four pole-mounted transformers which could not be upgraded due to insufficient space around. The applicant has also undertaken a site selection exercise (**Appendices Ic and Id**) to demonstrate no suitable Government land is available in the nearby “V” zone, which is technically feasible for the proposed development. DEMS has no comment on the application as far as electricity supply safety and reliability are concerned.
- 10.4 In view of the nature and design of the proposed package substation and cables, no adverse ecological, environmental, geotechnical, drainage and traffic impacts on the surrounding areas are anticipated. All relevant government departments have no objection to/ adverse comment on the application.
- 10.5 Regarding the public comment received on the application, Government departments’ comments and the planning assessments and considerations above are relevant.

11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comment mentioned in paragraph 9, the Planning Department has no objection to the application.
- 11.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until **15.9.2024**, 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 condition of approval and advisory clauses are also suggested for Members' reference:

Approval Condition

- (a) the provision of water supplies for firefighting and fire services installations to the satisfaction of the Director of Fire Services or of the Town Planning Board.

Advisory Clauses

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

- 11.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:
- the proposed development is not in line with the planning intentions of the "CPA" and "CA" zones to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, and 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 SSSI or Country Park from the adverse effects of development respectively. There is a general presumption against development in both zones. There is no strong planning justification in the submission for a departure from such planning intentions.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clauses to be attached to the permission, and the date when the validity of the permission should expire.
- 12.3 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.

13. Attachments

Appendix I	Application form and attachments dated 17.6.2020
Appendix Ia	Supplementary information received on 19.6.2020
Appendix Ib	Further information received on 14.7.2020
Appendix Ic	Further information received on 23.7.2020
Appendix Id	Further information received on 29.7.2020
Appendix II	Public Comment
Appendix III	Recommended Advisory Clauses
Drawing A-1	Site location plan submitted by the applicant
Drawing A-2	Elevation plan of the package substation submitted by the applicant
Drawing A-3	Cable route plan
Drawing A-4	Catchment area plan
Drawing A-5	Site selection plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a to 4e	Site photos

**PLANNING DEPARTMENT
SEPTEMBER 2020**