

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-SLT/5

<u>Applicant</u>	: HGC Global Communications Limited
<u>Site</u>	: Government Land (GL) in D.D. 31 near Cheung Uk, Sha Lo Tung, Tai Po, New Territories
<u>Site Area</u>	: About 92m ²
<u>Lease</u>	: GL
<u>Plan</u>	: Approved Sha Lo Tung Outline Zoning Plan (OZP) No. S/NE-SLT/4
<u>Zonings</u>	: “Conservation Area” (“CA”) (about 19.5m ² or 21%) “Green Belt” (“GB”) (about 47m ² or 51%) “Site of Special Scientific Interest” (“SSSI”) (about 22m ² or 24%) “Village Type Development” (“V”) (about 3.5m ² or 4%) ¹
<u>Application</u>	: Proposed Public Utility Installation (PUI) (Telecommunication Duct and Cables) and associated Excavation of Land

1. The Proposal

- 1.1 The applicant seeks planning permission (**Plan A-1**) for proposed PUI (telecommunication duct and cables) and associated excavation of land at the application site (the Site). The Site falls within areas zoned “CA” (about 21%), “GB” (about 51%) and “SSSI” (about 24%) on the approved Sha Lo Tung OZP No. S/NE-SLT/4. According to the Notes of the OZP for the “CA”, “GB” and “SSSI” zones, ‘PUI’ and excavation of land require planning permission from the Town Planning Board (the Board). The Site is along an existing local track, which is partly paved.
- 1.2 The proposed PUI is for enhancing telecommunication services for Sha Lo Tung Cheung Uk and visitors to the countryside, which is supported by the government policy under ‘Subsidy Scheme to Extend Fibre-based Networks to Villages in Remote Areas’ (the Subsidy Scheme). Under the Subsidy Scheme, Office of the Communications Authority (OFCA) would provide subsidies to fixed network operators (FNOs) to encourage the extension of fibre-based networks to villages in

¹ A very minor portion of the Site falls within an area zoned “V”, which is considered as minor boundary adjustment and will not be included in the planning assessments.

remote areas and facilitates the relevant implementation works of selected FNOs to expand the network coverage to the villages concerned so as to provide the telecommunications infrastructure necessary for the conservation and revitalisation of rural and remote areas. Two fibre cables will be laid inside an underground/aboveground duct of about 460m in length running along an existing local track connecting to the southern part of Sha Lo Tung to Cheung Uk (**Plan A-2**). The associated excavation of land involves an area of about 90.8m², with a width of about 0.2m and a depth of about 0.5m, which will be backfilled and reinstated to the current condition upon completion of the proposed installation. The excavation works will be confined to 8am and 5pm from Mondays to Saturdays excluding Sundays and public holidays. The layout plan and section plan submitted by the applicant are shown in **Drawings A-1 to A-2**.

1.3 According to the tree survey submitted by the applicant, 31 trees will be affected by the proposed construction works. No tree felling is proposed and a method statement for trench works is submitted by the applicant to minimize any adverse impact on the affected trees (**Appendix Ic**).

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

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|-----|---|------------------------|
| (a) | Application Form received on 22.8.2023 | (Appendix I) |
| (b) | Further Information (FI) received on 25.9.2023* | (Appendix Ia) |
| (c) | FI received on 6.12.2023, 7.12.2023 and 8.12.2023 | (Appendix Ib) |
| (d) | FI received on 3.1.2024* | (Appendix Ic) |
| (e) | FI received on 18.1.2024* | (Appendix Id) |

*(*accepted and exempted from the publication and recounting requirements)*

1.5 On 13.10.2023, the Rural and New Town Planning Committee (the Committee) agreed to defer a decision on the application for two months in order to prepare FI to address departmental and public comments.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are set out at **Appendices I, Ia, Ic and Id** and summarized below:

- (a) the applicant is one of the FNOs selected under the Subsidy Scheme. The proposed installation is to enhance telecommunication services such as local fixed network and broadband connection to the village. It also enables the public to enjoy free Wi-Fi services;
- (b) the applicant has minimized the scale of the proposed PUI and its potential impacts on the surrounding areas and villagers;

- (c) the alignment of the duct will not encroach onto the wooded area and no tree felling will be taken place. Hand digging will be applied to minimize the impact on the root system of the trees. Independent tree specialist or qualified arborist will be assigned to monitor the trench works;
- (d) noting that the abandoned fields near the Site are firefly habitats, the proposed works will only be carried out during dry season and the duration of installation will be within 2 months. The proposed works will be carried out between 8:00 am to 5:00 pm from Mondays to Saturdays only and by sections (30m in length each time) so that the works area will be backfilled daily. The use of road hazard warning lanterns after daily works at night time will be minimized as fencing off the site will not be required;
- (e) excavated materials will be transported away by trolleys to the designated temporary stockpiling area daily and cleared regularly;
- (f) to prevent construction run-off from entering into the nearby ecologically sensitive stream habitats within the “SSSI” zone, a galvanized iron pipe with the smallest size (6m (L) x 0.086m (D)), which is durable under extreme weather, will be laid aboveground on the existing bridge across the stream so that no excavation will be required. In addition, sand bags will be placed around the works area and installation on rainy day will be avoided to minimize ecological impact and runoff from the works area to the natural stream; and
- (g) the applicant will follow advisory comments from relevant departments, if any, to minimize environmental impact.

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

As the Site involves GL 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. 31B) are not applicable to the application.

4. Town Planning Board Guidelines

Town Planning Board Guidelines No. 10 for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) is relevant to this application. The relevant assessment criteria are at **Appendix II**.

5. Previous Application

Part of the Site overlaps with a previous application (No. A/DPA/NE-SLT/1) for 120 New Territories Exempted Houses (NTEHs) (Small Houses), ancillary village uses, and public car park and amenity area, which are not relevant to the current application. It was rejected by the Board on review in 2001. Details of the previous application are summarized at **Appendix III** and its locations are shown on **Plans A-1** and **A-2**.

6. Similar Application

There is no similar application within the same “CA”, “GB” and “SSSI” zones.

7. The Site and Its Surrounding Areas (Plans A-1 to A-4f)

7.1 The Site is:

- (a) along an existing partly paved local track connecting to the “V” zone of Cheung Uk;
- (b) across an Ecologically Important Stream (EIS) with a width of about 5m over an existing bridge;
- (c) within water gathering grounds (WGG); and
- (d) within and in the vicinity of the boundary of Sha Lo Tung Cheung Uk which was accorded a Grade 2 status by the Antiquities Advisory Board (“AAB”).

7.2 The surrounding areas comprise woodlands, vegetated areas, farmlands and temporary structures. To the immediate north of the Site are an eco-pond and artificial marshes. To the east of the Site is the Green Power site office and farmlands. To the further south is the fringe of Tai Po New Town.

8. Planning Intentions

- 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 serve as a buffer to give added protection to the ecologically sensitive areas, in particular, the streamcourses within the SSSI. 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/features of the area or are essential infrastructure projects with overriding public interest may be permitted.
- 8.2 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.
- 8.3 The planning intention of the “SSSI” zone is to conserve and protect the streamcourses and the freshwater marshes which are important habitats for the breeding and development of rare species and diverse community of dragonflies, for other aquatic and stream fauna such as freshwater fishes and amphibians which are of special scientific interest. It intends to deter human activities or developments within the SSSI. There is a general presumption against development in this zone. No developments are permitted unless they are needed to support the conservation of the features of special scientific interest in the SSSI,

to maintain and protect the existing character of the SSSI, or for educational and research purposes.

9. Comments from Relevant Government Departments

- 9.1 The following government departments have been consulted and their views on the application are summarized as follows:

Telecommunications

9.1.1 Comments from the Director-General of Communication (DG of C):

- (a) support the application;
- (b) to speed up the progress of extending network coverage by FNOs in the remote areas in Hong Kong, the Chief Executive announced in the 2017 Policy Address that the Government would provide subsidies to FNOs to encourage the extension of fibre-based networks to villages in the remote areas. Selected FNOs will be subsidized to roll out fibre lead-in connections to the vicinity of the entrances of the villages concerned, so as to provide telecommunications infrastructure necessary for the conservation and revitalization of rural and remote areas. OFCA supports the Government in implementing the policy and facilitates the relevant implementation work of selected FNOs to expand the network coverage to the villages concerned. Sha Lo Tung Cheung Uk is one of the 235 villages covered by a project under the Subsidy Scheme, and the applicant is the selected FNO for the project to conduct the network rollout works to Sha Lo Tung Cheung Uk; and
- (c) there are substantial benefits in implementing the Subsidy Scheme:
 - (i) improves the broadband speed and stability of service for the villages covered under the Subsidy Scheme;
 - (ii) allows other FNOs to provide broadband services to the villages concerned by sharing the use of the subsidized network facilities, thereby introducing market competition and offering more choices to the villagers. Service charges are expected to be able to peg at a competitive level under the market mechanism;
 - (iii) enhances the coverage of fiber-based networks in the remote areas, and provides the infrastructure necessary for the deployment of other types of telecommunications services, such as 5G mobile and Wi-Fi services, benefitting villagers and visitors to the countryside; and
 - (iv) makes broadband services more popular in the remote areas, thereby supporting the smart city development of Hong Kong.

Nature Conservation

9.1.2 Comments of the Head of Countryside Conservation Office, Environment and Ecology Bureau (Head of CCO, EEB):

- (a) no objection in-principle to the application; and
- (b) the applicant is required to seek the agreement from the CCO on the final design of the works before construction, in order to minimize the interfacing issues on CCO's proposed improvement works along the same footpath and Sha Lo Tung Visitor Facilities and Management Office.

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

- (a) no objection in-principle from ecological perspective;
- (b) the abandoned fields along most parts of the alignment are firefly habitats. The fireflies are active and begin their adult flight period as early as March until late September. To avoid the works and the road hazard warning lanterns causing disturbance to the fireflies, the works period for the whole alignment should be limited to the dry season, i.e. from October to February (inclusive);
- (c) with reference to the applicant's method statement, it is noted that preventive measures would be in place to prevent construction run-off from entering into the nearby ecologically sensitive stream habitats;
- (d) it is noted that the works area will not encroach onto the wooded area and no tree felling is anticipated;
- (e) the applicant should ensure that disruption to the daily access of villagers due to the proposed works is minimized; and
- (f) the applicant should notify DAFC the works' commencement date and the anticipated completion date at least two weeks in advance of the works' commencement.

Environment

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

- (a) no adverse comment from environmental planning perspective; and
- (b) his advisory comments are at **Appendix V**.

Land Administration

9.1.5 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 GL (UUGL) in D.D. 31;
- (c) the proposed use to be erected on UUGL will be covered by the Block Licence;
- (d) no tree at GL as per the tree survey report of the FI would be affected by the proposed works. Otherwise, the applicant shall obtain a prior approval from his office; and
- (e) the applicant should apply from his office for an excavation permit before commencement of works.

Landscape

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

- (a) no objection to the application from landscape planning perspective;
- (b) the Site is located in an area of upland plateaux landscape character surrounded by woodlands, vegetated areas, farmlands and temporary structures. Some trees of common species in close proximity to the site boundary are observed. Proper tree preservation measure should be carried out to avoid damage to existing trees during the excavation;
- (c) with reference to the tree survey report submitted by the applicant, 31 nos. of existing trees of common species in poor to fair condition are observed along the Site, tree protection measures to preserve the trees and minimize the adverse impact on the trees are proposed. It is also noted that the proposed works will be carried out in dry season and no tree felling will be involved;
- (d) approval of the application does not imply approval of tree works such as pruning, transplanting and felling under lease. The applicant is reminded to seek approval for any proposed tree works from relevant departments prior to commencement of the works; and
- (e) her advisory comments are at **Appendix V**.

Water Supply

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

- (a) no objection to the application; and
- (b) the Site is within WGG and hence, the project proponent shall comply with the requirements as given in the “Conditions of Working within Gathering Grounds.

Traffic

9.1.8 Comments of the Commissioner for Transport (C for T)

- (a) no adverse comment to the application; and
- (b) the application site on the village footpath is not under Transport Department’s management. It is suggested that the land status, management and maintenance responsibilities of the village footpath should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

Antiquities and Monuments

9.1.9 Comments of the Executive Secretary of Antiquities and Monuments Office, Development Bureau (ES(AMO), DEVB)

- (a) no adverse comment in-principle on the application from the heritage conservation perspective; and
- (b) her advisory comments are at **Appendix V**.

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

- (a) Director of Electrical and Mechanical Services (DEMS);
- (b) Director of Food and Environmental Hygiene (DEFH);
- (c) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (d) Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD);
- (e) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD);
- (f) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (g) Director of Fire Services (D of FS); and
- (h) District Officer (Tai Po), Home Affairs Department (DO(TP), HAD).

10. Public Comment Received During Statutory Publication Period (Appendix IV)

- 10.1 On 29.8.2023 and 19.12.2023, the application and FI were published for public inspection. During the statutory public inspection periods, seven public comments were received objecting to the application.
- 10.2 The seven opposing comments were received from an individual, Kadoorie Farm & Botanic Garden Corporation, The Conservancy Association and Green Power. Their objecting views are summarized below:
- (a) the applicant did not provide sufficient information on the proposed works such as the end users of the service, any tree protection measures and the time schedule;
 - (b) excavation in conservation area is allowed for essential services of community benefit only;
 - (c) the alignment is in close proximity to the woodland edge and some mature trees;
 - (d) the proposed development may override public interest since there are apparently very limited villagers living in Sha Lo Tung;
 - (e) illegal dumping and stockpiling of construction and demolition materials have already occurred in Sha Lo Tung under previous utility projects, and similar consequences may arise and induce adverse long-term impacts to vulnerable habitats and wildlife;
 - (f) the proposed installation may not be in line with the planning intention of “SSSI” and “CA” zones; and
 - (g) the proposed works in SSSI are close to the natural stream which is an EIS. Polluted and muddy runoff would be directly discharged into the EIS, causing serious significant ecological impacts.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed PUI (telecommunication duct and cables) with associated excavation of land within the areas zoned “CA” (about 21%), “GB” (about 51%), “SSSI” (about 24%) and “V” (about 4%). The proposed cables will be about 460m in length with a trench of about 200mm in width predominantly running along an existing partly paved local track connecting to Cheung Uk. The associated excavation of land involves an area of about 90.8m² and is about 0.5m in depth, which will be backfilled to the current level and reinstated to the current condition upon completion of the proposed installation. The duration of the proposed installation works is 2 months as indicated by the applicant.
- 11.2 For the “CA” zone, it is intended to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to serve as a buffer to give added protection

to the ecologically sensitive areas, in particular, the streamcourses within the SSSI. In general, only developments that are needed to support the conservation of the existing natural landscape/features of the area or are essential infrastructure projects with overriding public interest may be permitted. For the “GB” zone, it 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. For the “SSSI” zone, it is intended to conserve and protect the streamcourses and the freshwater marshes which are important habitats for the breeding and development of rare species and diverse community of dragonflies, for other aquatic and stream fauna such as freshwater fishes and amphibians which are of special scientific interest. No developments are permitted unless they are needed to support the conservation of the features of special scientific interest in the SSSI, to maintain and protect the existing character of the SSSI, or for educational and research purposes. There is a general presumption against development in these zones.

- 11.3 Although the proposed PUI and excavation works are not entirely in line with the planning intentions of the “CA”, “GB”, and “SSSI” zones, the proposed alignment would be confined to the existing footpath. In addition, the applicant has minimized the scale of the proposed installation to minimize potential impacts on the surrounding areas and proposed appropriate preventive measures for the excavation works. DG of C supports the application that the proposed PUI under the Subsidy Scheme would provide the telecommunications infrastructure necessary for the conservation and revitalization of rural and remote areas and benefit villagers and visitors to the countryside as detailed in paragraph 9.1.1 above. In this regard, the proposed installation and works can be considered as an essential infrastructure project.
- 11.4 According to the applicant, no tree felling and vegetation clearance will be caused by the proposed works. To minimize damage to the affected trees identified in the tree survey, the applicant proposes measures such as assigning an independent tree specialist or qualified arborist to closely supervise the excavation works, applying hand digging excavation method to avoid damage to tree roots, backfilling the soil as soon as possible after laying the duct, etc. CTP/UD&L of PlanD has no objection to the application from landscape planning perspective. If the trees on GL will be affected by the proposed works, the applicant should obtain a prior approval from DLO/TP.
- 11.5 To minimize ecological impact on firefly habitats, the works will be conducted during dry season outside the active period of fireflies from 8am to 5pm only. For the section of the duct to be placed across the ecologically sensitive stream, no excavation works will be carried out. Proper preventive measures will be implemented such as placement of sandbags around works area and avoidance of installation on rainy day to avoid runoff to the natural stream. Furthermore, the excavation materials will be transported from the site to a temporary stockpiling area by trolley and regular clearance of excavation materials in the stockpiling area as detailed in the method statement submitted by the applicant (**Appendix Ic**). Head of CCO, EEB, DAFC, DEP and CE/C, WSD have no objection in-principle or adverse comment on the application from nature conservation and environmental planning perspective.

- 11.6 For the public concern on illegal dumping of construction and demolition materials, DEP and CE/C, WSD advise that the applicant should strictly comply with all relevant environmental pollution control ordinances and adopt suitable mitigation measures and good site practices during construction, by making reference to “Recommended Pollution Control Clauses for Construction Contract”; and the requirements as given in the “Conditions of Working within Gathering Grounds”. Head of CCO, EEB advises that the applicant is required to seek the agreement from CCO on the final design of the works before construction, in order to minimize the interfacing issues on CCO’s proposed improvement works along the same footpath and Sha Lo Tung Visitor Facilities and Management Office. Other government departments consulted have no objection to/adverse comment on the application on technical aspects. In view of the small scale and short duration of time of the proposed use and associated work, and departmental comments above, TPB PG-No. 10 is considered generally complied with.
- 11.7 Regarding the public comment received as detailed in paragraph 10, the planning assessments and departmental comments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, 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 **26.1.2028**, 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 conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no construction works are allowed at the Site between 5:00 pm to 8:00 am from Mondays to Saturdays, as proposed by the applicant; and
- (b) no construction works are allowed at the Site on Sundays and public holidays, as proposed by the applicant.

Advisory Clauses

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

- 12.3 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 “SSSI”, which is to conserve and protect the features of special scientific interest such as rare or particular species of fauna and flora and their habitats, corals, woodlands, marshes or areas of geological, ecological or botanical/biological interest; the “CA” zone, which 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; and 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 in these zones. There is also no strong planning justification in the submission for a departure from such planning intentions.

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 clauses to be attached to the permission, and the date when the validity of the permission should expire.
- 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 22.8.2023
Appendix Ia	FI received on 25.9.2023
Appendix Ib	FI received on 6.12.2023, 7.12.2023 and 8.12.2023
Appendix Ic	FI received on 3.1.2024
Appendix Id	FI received on 18.1.2024
Appendix II	TPB PG-No. 10
Appendix III	Previous application
Appendix IV	Public comments
Appendix V	Recommended advisory clauses
Drawing A-1	Cable route plan submitted by the applicant
Drawing A-2	Section plan of the underground cables submitted by the applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a to A-4f	Site photos

**PLANNING DEPARTMENT
JANUARY 2024**