

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-SSH/146

- Applicant** : Instinct Investment Limited represented by R-riches Property Consultants Limited
- Site** : Lots 578 (Part) and 580 (Part) in D.D. 209, Kei Ling Ha Lo Wai, Shap Sz Heung, Sai Kung, New Territories
- Site Area** : About 58m²
- Lease** : Old Schedule Agricultural Lot held under Block Government Lease
- Plan** : Approved Shap Sz Heung Outline Zoning Plan (OZP) No. S/NE-SSH/11
- Zoning** : “Coastal Protection Area” (“CPA”)
- Application** : Proposed Excavation of Land (Installation of Pole with Switchgear for Permitted Agricultural Use)

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed excavation of land at the application site (the Site) (**Plan A-1**) for installation of pole with switchgear to serve an existing farm. The Site falls within an area zoned “CPA” on the approved Shap Sz Heung OZP No. S/NE-SSH/11. According to the Notes of the OZP, ‘Agricultural Use’ is always permitted within “CPA” zone. The proposed pole with switchgear can be regarded as ancillary facility to the permitted agricultural use. However, the Remarks of the Notes stipulate that any excavation of land within “CPA” zone would require planning permission from the Town Planning Board (the Board).
- 1.2 According to the applicant, the proposed excavation of land involves an area of about 0.35m² and a depth of not more than 1.5m to facilitate the installation of the proposed pole with switchgear of 2m (length) X 1m (width) X 10.5m (height), and 12 steel poles each of about 0.15m in diameter and about 1.35m in height for designating a safety clearance zone of 58m² in area. CLP Power Limited (CLP) will be responsible for the construction of the pole with switchgear and the related maintenance works, whereas the 12 steel poles will be provided by the applicant according to CLP’s standards. The applicant claims that the proposed pole with switchgear forms part of the existing farm falling within the same “CPA” zone. The farm is accessible via a local track. The location plan, typical section plan and layout plan submitted by the applicant are shown in **Drawings A-1 to A-3**.

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

- (a) Application Form received on 14.12.2022 and (**Appendix I**) supplementary information received on 23.12.2022
- (b) Further information (FI) received on 19.1.2023 (**Appendix Ia**)

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 and FI submission at **Appendices I and Ia** and summarized below:

- (a) the proposed excavation of land is necessary for installing the proposed pole with switchgear to enhance power supply to the existing farm in Kei Ling Ha Lo Wai with additional agricultural structures approved by Lands Department (LandsD) within the farm and to support its daily operation, including lighting and automatic irrigation system;
- (b) the Site is located in the southern end of the farm, which is considered as a suitable location for installation and maintenance to be carried out by CLP;
- (c) given the small scale of the proposed excavation of land, it would not result in adverse visual and environmental impact. Mitigation measures would be implemented during construction phase to minimize the impacts of wastewater and to collect runoff generated on the Site so as to ensure no direct impact on the Kei Ling Ha Mangal Site of Specific Interest (SSSI).

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

The applicant is the sole “current land owner”. 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. 31A) is not applicable. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Previous Application**

The Site is not the subject of any previous application.

5. **Similar Application**

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

6. The Site and Its Surrounding Areas (Plans A-1 to A-3 and site photos on Plans A-4a to A-4b)

6.1 The Site is:

- (a) vacant and covered with vegetation (**Plans A-4a to A-4b**);
- (b) located within an existing farm operated by the applicant with a few sheds erected for agricultural use (**Plans A-2 and A-4b**);
- (c) located to the north of the “Village Type Development” (“V”) zone of Kei Ling Ha Lo Wai, and to the west of “Site of Specific Interest” (“SSSI”) of Kei Ling Ha Mangal; and
- (d) accessible via a local track.

6.2 The surrounding areas are predominantly rural in character predominated by a mix of tree groups, active and fallow agricultural land and village houses (**Photo 1 on Plan A-4a**).

7. Planning Intention

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.

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) the Site consists of 2 private lots which are Old Schedule Lots held under the Block Government Lease demised for agricultural purpose and containing the restriction that no structures are allowed to be erected without the prior approval of the Government;

- (b) Part of the Site (i.e. Lot 580 in D.D.209) is covered by a Letter of Approval (L of A) No.6255 to permit erection of structures which shall be used only for agricultural purposes and shall not be used for domestic, commercial, godown or industrial purposes; and
- (c) his advisory comments are at **Appendix III**.

Nature Conservation

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

in view of the limited disturbance to nearby vegetation, and precautionary measures would be provided in minimizing surface water runoff from the Site to the natural stream that connects to the Kei Ling Ha Mangal SSSI, he has no comment on the application from nature conservation perspective.

Landscape

8.1.3 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) based on the aerial photo of 2020, the Site is situated in an area of rural landscape character comprising natural woodland and small houses. Kei Lin Ha Mangal, a designated SSSI, is located in closed proximity to the north and east of the Site. Based on site photos taken on 30.12.2022, the Site is mainly covered by natural grass/groundcovers. No existing trees are found within the Site; and
- (c) given the scale and nature of works, significant adverse impact on the surrounding landscape resources and character is not anticipated.

Electricity

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

- (a) no particular comment on the application from electricity supply safety aspect; and
- (b) his advisory comments are at **Appendix III**.

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

- (a) Chief Building Surveyor/New Territories West, Buildings Department;
- (b) Chief Engineer/Mainland North, Drainage Services Department;

- (c) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (d) Commissioner for Transport;
- (e) Director of Environmental Protection;
- (f) Director of Fire Services;
- (g) Chief Engineer/Construction, Water Supplies Department;
- (h) District Officer (Tai Po), Home Affairs Department;
- (i) Head of Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (j) Project Manager (North), Civil Engineering and Development Department.

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

The application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual objecting to the application mainly for reasons that the application is to support unapproved development and the Site was subject to a history of withdrawn applications.

10. Planning Considerations and Assessments

- 10.1 The application is for proposed excavation of land (about 0.35m² in area) with a depth of not more than 1.5m to support the installation of the pole with switchgear and 12 steel poles which can be regarded as ancillary use to the existing farm. The Site falls within the “CPA” zone, which is intended 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. There is a general presumption against development within the “CPA” 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. Agricultural use is always permitted in the “CPA” zone while excavation of land requires permission from the Board. According to the applicant, the proposed excavation of land is required for the installation of the pole with switchgear for enhancing power supply to support daily operation of the existing farm falling within the same “CPA” zone and new agricultural structures approved by LandsD. The proposed excavation of land is considered essential to support the permitted agricultural use. DAFC has no adverse comments on the application in view of the limited disturbance to vegetation and precautionary measures proposed to minimize surface runoff generated from the Site. Sympathetic consideration may be given to the application.
- 10.2 The Site is located to the north of the “V” zone of Kei Ling Ha Lo Wai and covered with vegetation. The proposed excavation works is small in scale and is not incompatible with the surrounding environment which is predominantly rural in character comprising a mix of tree groups, active and fallow agricultural land and village houses. CTP/UD&L of PlanD has no objection to the application as significant adverse impact on the surrounding landscape resources is not anticipated.

- 10.3 In view of the nature and scale of the proposed excavation works, no adverse environmental, traffic, drainage and fire safety impacts are anticipated. Relevant departments consulted have no objection to or no adverse comments on the application.
- 10.4 Regarding the objecting public comment as detailed in paragraph 9 above, government departments' comments and the planning assessments above are relevant.

11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10 above, 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 **3.2.2027**, 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 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 application is not in line with the planning intention of the "CPA" zone which 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. There is a general presumption against development 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. There is no strong planning justification in the submission for a departure from such planning intention.

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 received on 14.12.2022 and 23.12.2022
Appendix Ia	Further information received on 19.1.2023
Appendix II	Public comment
Appendix III	Recommended Advisory Clauses
Drawing A-1	Location plan submitted by the applicant
Drawing A-2	Section plan submitted by the applicant
Drawing A-3	Layout plan submitted by the applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a to A-4b	Site photos

**PLANNING DEPARTMENT
JANUARY 2023**