

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-SSH/152

- Applicant** : Princeton Partners Limited represented by Mr. WONG Ting Kit
- Site** : Lot 476 (Part) in D.D. 207, Shap Sz Heung, Sai Kung, New Territories
- Site Area** : About 67 m²
- Lease** : Old Schedule Agricultural Lot held under the Block Government Lease
- Plan** : Approved Shap Sz Heung Outline Zoning Plan (OZP) No. S/NE-SSH/11
- Zoning** : “Conservation Area” (“CA”)
- Application** : Proposed Utility Installation for Private Project (Transformer Room and Switch Room) and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed utility installation for private project (transformer room and switch room) and associated filling of land at the application site (the Site) falling within an area zoned “CA” on the approved Shap Sz Heung OZP No. S/NE-SSH/11 (**Plan A-1**). According to the Notes of the OZP, ‘Utility Installation for Private Project’ and filling of land within the “CA” zone require planning permission from the Town Planning Board (the Board). The Site is currently vacant and partly covered with vegetation.
- 1.2 According to the applicant, the proposed installation is to re-house an existing electricity pole with switchgear located to the immediate northeast of the Site (**Plan A-4**), which is currently supplying electricity to Lots 474 and 478 in D.D. 207. The proposed installation includes a transformer room (5.9m (length) x 8.1m (width) x 2.9m (height)) and a switch room (3.15m (length) x 6.1m (width) x 2.9m (height)) to be housed in a newly built structure within the private lot (**Drawings A-1 and A-2**). The proposed land filling area is about 67m² with a depth of about 0.15m. The proposed installation will further supply electricity to Lots 472, 473, 475, 476 and 477 in D.D. 207¹ in future (**Plan A-2**) and CLP Power Limited (CLP) will be responsible for the construction works. The location plan and layout plan submitted by the applicant are shown in **Drawings A-1 and A-2**.

¹ The applicant has not provided sufficient information regarding the uses of these adjoining lots and has not demonstrated that such uses are permitted uses under the OZP.

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

- (a) Application Form and attachments dated 31.10.2023 (Appendix I)
- (b) Further Information (FI) received on 1.12.2023^ (Appendix Ia)
- (c) FI received on 7.12.2023 and 8.12.2023^ (Appendix Ib)
- (d) FI received on 18.12.2023^ (Appendix Ic)

(^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 at **Appendices I to Ic** and summarized as follows:

- (a) the proposed installation is recommended by CLP and is necessary for rehousing an existing electricity pole with switchgear on site which has potential hazard to the surroundings especially in rainy season and adverse weather conditions;
- (b) the proposed installation will provide electricity supply to the adjoining areas including the domestic dwellings, farmlands and gardens;
- (c) only one *Dyopsis Lutescens* (散尾葵) is found within the Site and its tree trunk has been penetrated by termites. It will be transplanted to a place far away from other plant for treatment purpose; and
- (d) as the proposed installation involves filling of land of 65m² with a depth of 0.15m, it will not cause environmental impacts or changes to the surrounding area. U-channel is proposed to divert water to the sewer nearby. The proposal will be designed by professional after planning approval is granted.

3. **Background**

- 3.1 The Site is not subject to any active planning enforcement action, but under close monitoring by the Planning Authority.
- 3.2 The Site is part of a previous planning enforcement case (No. E/NE-SSH/40) against unauthorized development (UD) for storage, recreation, kitchen and latrine uses with the Enforcement Notice (EN) and Reinstatement Notice (RN) issued in 2010 and 2011 respectively. The UD was subsequently discontinued and the site was reinstated with the Compliance Notices issued in 2011 and 2012 respectively

4. **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.

5. Previous Application

The Site was part of the subject of two previous applications (No. A/DPA/NE-SSH/1 and A/DPA/NE-SSH/2) for village expansion area (22 small houses) and outdoor film shooting site respectively, which are not relevant to the current application. Both applications were rejected by the Committee in 1992. Details of the applications are summarized in **Appendix II** and their locations are shown on **Plans A-1** and **A-2**.

6. Similar Application

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

7. The Site and Its Surrounding Areas (Plans A-1 and A-2 and photos on Plans A-3 and A-4)

7.1 The Site is:

- (a) currently vacant and partly covered with vegetation;
- (b) accessible via local track connecting to Sai Sha Road;
- (c) located to the southwest of Tai Tung Wo Liu Village.

7.2 The surrounding areas are predominantly rural in character intermixed with domestic dwellings, gardens, orchard, carports and storage uses without valid planning permission. The wider areas are mainly woodlands.

8. Planning Intention

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 separate sensitive natural environment such as Site of Special Scientific Interest 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 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.

8.2 Filling of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment. In view of the conservation value of the area within this zone, permission from the Board is required for such activity/activities.

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:

Land Administration

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

- (a) the Site comprises Lot 476 (Part) in D.D. 207 which is an Old Schedule Agricultural Lot (OSAL) 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;
- (b) there is no guarantee to the grant of a right of way to the Site or approval of the EVA thereto;
- (c) according to the applicant, the proposed Transformer Room and Switch Room is for electricity supply to Lot Nos. 478 and 474 (and 472, 473, 475, 476 and 477 in future), i.e. private land in the vicinity of the Site;
- (d) a recent inspection revealed that unauthorized structures were erected on private land in the vicinity and adjoining government land (GL) without the prior approval from LandsD. No permission is given for occupation of GL. Regularization of illegal occupation of GL on or after 28.3.2017 will not be considered according to prevailing land policy; and
- (e) in view of (d) above, he has reservation on the application.

Drainage

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

- (a) no existing/planned DSD's stormwater and sewerage facilities would be affected by the proposed development at the moment;
- (b) a minimum clearance of 3m between the footprint of the proposed development and its/their nearest extremity of the existing ditch/streamcourse/pond/river/the top of embankment should be maintained at all times;
- (c) the applicant is requested to provide the following information for his further consideration:
 - (i) proposed finished site formation level and footprint of the proposed development (bearing in mind that the site formation level shall not cause flooding risk to nearby area/premises);

- (ii) stormwater drainage proposal demonstrating stormwater drainage collection and disposal facilities of adequate flow capacity already exist/to be provided can deal with surface runoff within the lot or flow from adjacent areas including overland flow. The lot owner(s) shall effect the necessary modification/upgrading work of downstream drainage system;
- (iii) provision of written consent(s) from relevant lot owner(s) and/or LandsD's permission for laying new drains/channels and/or modifying/upgrading existing ones outside the application lot(s) or on GL (where required); and
- (d) the information submitted by the applicant (**Appendices Ib and Ic**) is insufficient to address comments (c)(i) to (c)(iii) above.

Nature Conservation

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

no comment on the application as the site is covered with common plant species.

Environment

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

- (a) he has no adverse comments on the application from environmental planning perspective;
- (b) the subject application is to replace the existing pole mounted transformer (掛桿式電力變壓器) by a new one to be installed in a transformer room with a switch room, serving the Site and adjacent areas. The total area of development is about 67m² and is about 0.15m in depth;
- (c) meanwhile, it is also noted from Agriculture, Fisheries and Conservation Department's advice that the Site is covered with common plant species and he has no adverse comments on the application;
- (d) in view of the above, the proposed works does not constitute a Designated Project (DP) under the Environmental Impact Assessment Ordinance (EIAO) (Cap. 499); and
- (e) his advisory comments are at **Appendix IV**.

Landscape

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

- (a) based on the aerial photo of 2022, the site is situated in an area of settled valleys landscape character comprising large-scale woodland and scattered low-rise structures. The proposed use is considered not incompatible with the landscape character of its surrounding environment;
- (b) having reviewed the submitted FI, the applicant claimed that one existing *Dypsis lutescens* (散尾葵) will be affected by the proposed work and is proposed to be transplanted to another location within the same Lot. Based on the site photo taken on 10.11.2023, it is observed that the affected palm should be *Archontophoenix alexandrae* (假檳榔). Significant adverse landscape impact on the existing landscape resources arising from the proposed use is not anticipated. She has no objection on the application from landscape planning perspective; and
- (c) her advisory comments are at **Appendix IV**.

Building Matters

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

- (a) no objection to the application; and
- (b) his advisory comments are at **Appendix IV**.

Electricity Supply

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

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

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

- (a) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO),CEDD);

- (b) Commissioner for Transport (C for T);
- (c) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (d) Director of Fire Services (D of FS);
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (f) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD); and
- (g) District Officer/Tai Po, Home Affairs Department (DO/TP, HAD).

10. Public Comments Received During Statutory Publication Period (Appendix III)

On 10.11.2023, the application was published for public inspection. During the statutory public inspection period, two public comments were received from Tin Liu Village Management Committee and one individual, objecting to the application for reasons that the major purpose of the proposed installation is in doubt and the electricity supply does not serve the Tin Liu Village as a whole but only one house in private lot. The proposed installation would also cause degradation of the conservation area and damage the Feng Shui within the village.

11. Planning Considerations and Assessment

- 11.1 The application is for a proposed utility installation for private project (transformer room and switch room) and associated filling of land at the Site within the “CA” zone. 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 from the adverse effects of development. There is a general presumption against development in this zone. It should be noted that only developments that are needed to support 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.
- 11.2 According to the applicant, the proposed installation is to re-house an existing electricity pole with switchgear located in the immediate northeast of the Site. The proposed installation includes a transformer room and a switch room both to be housed in a newly built structure (about 67m² in size and 2.9m in height) with a land filling area of about 67m² and a depth of about 0.15m. The proposed installation with filling of land, which is expected to intrude into areas covered with vegetation and surrounded by natural woodlands, is not in line with the planning intention of the “CA” zone.
- 11.3 The existing electricity pole is currently serving only two private lots where domestic dwellings and gardens were observed. The applicant has not provided sufficient information on the uses of the lots to be served by the proposed development, and whether the uses on these lots are permitted uses under the OZP or authorized structures. The scale of the proposed utility installation is substantially larger than the existing stand-alone pole. Such substantial change in scale is not well justified by the applicant. Besides, filling of land may cause adverse drainage impacts on the surrounding areas. Although the applicant has

provided site formation level and drainage proposal, the information provided is insufficient to address CE/MN of DSD's comments. In view of the above, the applicant fails to demonstrate that the proposed installation with filling of land is an essential infrastructure project with overriding public interest that warrants a departure from the planning intention of "CA" zone.

- 11.4 The Site is predominantly covered with and surrounded by vegetation and woodlands. The applicant claims that there is only one tree in poor condition within the Site. Whilst DAFC has no adverse comment on the application, CTP/UD&L, PlanD advises the proposed installation is considered not incompatible with the landscape character of its surrounding environment. EPD also advises that the proposed installation does not constitute a DP under the EIAO.
- 11.5 DLO/TP, LandsD has reservation on the application since there are unauthorized structures detected in the vicinity and adjoining GL without prior approval from LandsD and no permission is given for occupation of GL. While land administration issues should be handled separately, the lot owner should be advised to clear any unauthorized structures on site and to cease illegal occupation of GL as demanded by LandsD. Other concerned government departments have no objection to or no adverse comment on the application.
- 11.6 Regarding the two public comment raising objection as mentioned in paragraph 10, the government departments' comments and planning assessments 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 comments mentioned in paragraph 10, Planning Department does not support the application for the following reason:
 - the proposed installation with filling of land is not in line with the planning intention of 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. There is a general presumption against development within this zone. The applicant fails to demonstrate that the proposed installation is an essential infrastructure project with overriding public interest that warrants a departure from such planning intention.
- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 22.12.2027, 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 following condition of approval and advisory clauses are also suggested for Members' reference:
 - The submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are at **Appendix IV**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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. Attachments

| | |
|---------------------|---|
| Appendix I | Application form and attachments dated 31.10.2023 |
| Appendix Ia | Further information received on 1.12.2023 |
| Appendix Ib | Further information received on 7.12.2023 and 8.12.2023 |
| Appendix Ic | Further information received on 18.12.2023 |
| Appendix II | Previous Applications |
| Appendix III | Public Comments |
| Appendix IV | Recommended Advisory Clauses |
| Drawing A-1 | Site location plan submitted by the applicant |
| Drawing A-2 | Layout plan submitted by the applicant |
| Plan A-1 | Location plan |
| Plan A-2 | Site plan |
| Plan A-3 | Aerial photo |
| Plan A-4 | Site photos |

**PLANNING DEPARTMENT
DECEMBER 2023**