

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

**APPLICATION NO. A/SK-CWBN/65**

**Applicant:** CLP Power Hong Kong Limited (CLP) represented by Kum Shing (K.F.) Construction Company Limited

**Site:** Government Land in D.D. 238, Clear Water Bay, Sai Kung, New Territories

**Site Area:** About 18m<sup>2</sup>

**Land Status:** Government Land

**Plan:** Approved Clear Water Bay Peninsula North Outline Zoning Plan (OZP) No. S/SK-CWBN/6

**Zoning** “Conservation Area” (“CA”)

**Application:** Proposed Public Utility Installation (Underground Cable) and Excavation of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed public utility installation (underground cable) and associated excavation of land at the application site (the Site). The proposal includes the installation of a 18m long 380V underground cable and associated excavation of land of about 18m<sup>2</sup> (18m x 1m) with a depth of 1m for laying the underground cable. The cable trench will be backfilled to ground level after the works. The Site falls within an area zoned “CA” on the approved Clear Water Bay Peninsula North OZP No. S/SK-CWBN/6 (**Plans A-1 and A-2**). According to the Notes of the OZP, ‘public utility installation’ and excavation of land within the “CA” zone require planning permission from the Town Planning Board (the Board). The proposed installation is for provision of electricity to facilitate the operation of permitted agricultural use at an existing farm to the immediate west of the Site.
- 1.2 The Site is on an existing local track. The location plan and section plan submitted by the applicant are at **Drawings A-1 and A-2**.
- 1.3 Part of the Site is the subject of a previous application (No. A.SK-CWBN/58) for proposed public utility installation (Low Voltage (LV) poles, underground cable and overhead cable) and associated excavation and filling of land

submitted by the same applicant which was rejected by the Rural and New Town Planning Committee (the Committee) on 15.5.2020 (**Plans A-1 and A-2**). The application involved the installation of five 10m high LV poles, two 18m and 10m long 380V underground cables and a 127m long overhead cable, and excavation of land of about 33m<sup>2</sup>.

- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form and attachments received on 9.4.2021 (**Appendix I**)
  - (b) Further Information (FI) received on 12.10.2021 and 15.10.2021 (*accepted but not exempted from publication and recounting requirements*) (**Appendix Ia**)
- 1.5 On 28.5.2021 and 13.8.2021, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application each for two months as requested by the applicant. With the FI submitted on 12.10.2021 and 15.10.2021, 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 the attachments of the application form and FI in **Appendices I and Ia**. They can be summarised as follows:

- (a) the subject application is to provide electricity for the Somewhere Organic Farm (亦小園) (the concerned farm) (**Plans A-2 and A-3**). Since the existing LV power network at Hang Hau Wing Lung Road is serving the farm at Lot No. 31 S.B. in D.D. 238 (one of the adjacent farms) but not the concerned farm, installation works of new underground cable within the “CA” zone is unavoidable. It is the most suitable method for power supply with minimum excavation of land;
- (b) comparing with the previously rejected planning application (No. A/SK-CWBN/58) for five LV poles, two underground cables and an overhead cable, the current application has reduced the scale of the proposed installation to only one underground cable. As the existing underground cable serving the adjacent farm has been extended to area outside the concerned farm, a short extension of the existing underground cable would be able to provide electricity to the concerned farm. It was not uncommon that farms within the “CA” zone in the Clear Water Bay area were provided with electricity;
- (c) the proposed underground cable will provide electricity to about 60,000 square feet (i.e. about 5,574m<sup>2</sup>) of farmland for outdoor lighting, ventilation, closed circuit television, irrigation and sewerage systems, as well as farming tools and machines, etc.; and

- (d) the concerned farm owners (i.e. the applicants of the electricity supply) had explored the feasibility of developing an agricultural and environmental education camp at the concerned farm, but the plan was put on shelf due to infrastructural constraints including the lack of electricity supply. Should the education camp be proceeded, the concerned farm owners will submit a separate planning application to the Board for consideration for the proposed uses and apply to the Lands Department for the erection of the structures.

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

As the Site involves government land 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.31A) are not applicable to the application.

### **4. Background**

A small part of the Site and area to its immediate west (i.e. part of the concerned farm) (about 1,956m<sup>2</sup>) was previously subject to enforcement against unauthorised excavation and filling of land (Case No. CEP/E/SK-CWBN/49) (**Plan A-2**). Subsequent to an Enforcement Notice and a Reinstatement Notice issued, the concerned site has been reinstated, with Compliance Notices issued in October 2021.

### **5. Previous Application**

Application No. A/SK-CWBN/58, which was submitted by the same applicant, was for proposed Public Utility Installation (LV Poles, Underground Cable and Overhead Cable) and excavation and filling of land (**Plans A-1 and A-2**). The application involved the installation of five 10m high poles, two 18m and 10m long 380V underground cables and a 127m long overhead cable, and excavation of land of about 33m<sup>2</sup>. It was rejected by the Committee on 15.5.2020 for the reasons that the application is not in line with the planning intention of the “CA” zone in that the applicant fails to demonstrate that the proposed installation is essential infrastructure project with overriding public interest; and approval of the application would set an undesirable precedent for other similar applications with the “CA” zone.

### **6. Similar Application**

- 6.1 There is a similar application (No. A/SK-CWBN/37) for proposed Public Utility Installation (Pole with Transformer, Piller Box and Underground Cables) and excavation of land within areas zoned “Village Type Development” (“V”), “Green Belt” (“GB”) and “CA” (accounting for 20%, 43% and 37 % of the site area respectively) to the southwest of the Site, which was approved with conditions by the Committee on 22.1.2016 mainly on the grounds that the proposed works are essential installation for supplying electricity for the village house development in Ng Fai Tin; no tree felling is involved in the proposal; and no adverse impacts are anticipated.

- 6.2 Details of the similar application are summarised at **Appendix II** and its location is shown on **Plan A-1**.

**7. The Site and its Surrounding Areas (Plans A-1 to A-3 and Photos in Plan A-4)**

7.1 The Site:

- (a) is on an existing local track; and
- (b) is accessible by the existing local track connecting to Hang Hau Wing Lung Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate west is the concerned farm (i.e. Somewhere Organic Farm (亦小園)) with temporary structures within private lots;
- (b) to the south are occupied by two farms (i.e. the adjacent farms) with temporary structures within private lots;
- (c) to the north, west and south are vegetated slopes within the “CA” zone; and
- (d) to the further southwest are low-rise residential developments and village houses of Ng Fai Tin.

**8. Planning Intention**

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 the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted.

**9. Comments from Relevant Government Departments**

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

**Land Administration**

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

- (a) no objection to the application;

- (b) the Site falls on government land. If planning approval is given, the applicant is needed to apply for and obtain an Excavation Permit from DLO/SK before commencement of the works; and
- (c) as Government Land Licence No. S12038 (for unimproved grazing & grass cutting and the growing of pine trees on a non-commercial basis) is affected, the applicant is required to consult the concerned Licensee prior to commencement of works.

### **Urban Design**

#### 9.1.2 Comments of Chief Town Planner/Urban Design & Landscape, PlanD (CTP/UD&L, PlanD):

no comment on the application from urban design/visual perspective given the small scale of the development and that the works are mainly underground.

### **Landscape**

#### 9.1.3 Comments of CTP/UD&L, PlanD:

- (a) no objection to the planning application from landscape planning perspective; and
- (b) according to the site photos (**Appendix Ia** and **Plan A-4**), the newly proposed site boundary falls completely on a path. No existing trees or other significant landscape resources are observed within the site boundary. The Site is located in an area of rural fringe landscape character surrounding by woodlands, with recreational areas to the north and active farmlands to the south and southwest. Having regard that the proposed utility installation and excavation are underground and small in scale, it is considered not incompatible with the landscape character of the surrounding environment.

### **Nature Conservation**

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

it is noted that alignment of the proposed works is revised and no tree felling/vegetation clearance would be required. He has no comment on the application.

### **Environment**

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

no objection to the application. In view of the small scale and nature of

the proposed installation, the proposed installation will unlikely result in any potential adverse environmental impact.

### **District Officer's Comments**

#### 9.1.6 Comments of the District Officer/Sai Kung, Home Affairs Department:

no particular comment from project point of view. However, it is noted that some of the locals have submitted their comments and views during the public inspection periods.

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

- (a) Commissioner for Transport;
- (b) Chief Engineer (Works), Home Affairs Department;
- (c) Chief Highway Engineer/New Territories East, Highways Department;
- (d) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (e) Chief Building Surveyor/NTE2 & Rail, Buildings Department;
- (f) Head (Geotechnical Engineering Office), Civil Engineering and Development Department (H(GEO), CEDD);
- (g) Director of Electrical and Mechanical Services (DEMS);
- (h) Chief Engineer/ Construction, Water Supplies Department; and
- (i) Director of Fire Services.

## **10. Public Comments Received During Statutory Publication Period**

- 10.1 On 16.4.2021 and 22.10.2021, the application and FI were published for public inspection. During the statutory public inspection periods, a total of 29 public comments from the World Wide Fund for Nature Hong Kong (WWF) and individuals were received (**Appendix III**).
- 10.2 24 comments from individuals provide supporting views mainly on the grounds that the proposed installation is small in scale and is an operational requirement of the farm for electricity supply; there is no important trees and vegetation at the Site; and the proposed installation would provide electricity for the lighting to allow the volunteers and visitors to plant safely.
- 10.3 Five comments from WWF and individuals object to or raise concerns on the application mainly on the grounds that the proposed installation is considered as 'destroy first, develop later' case; it may involve unauthorized development, road construction and site formation; the proposed utility installation would benefit eco-vandalism and private development at the expense of destruction to government land; it will encourage further unauthorized development within the "CA" zone; and enforcement actions have been undertaken by the concerned government departments.

## **11. Planning Considerations and Assessments**

- 11.1 The application is to seek planning permission for proposed public utility installation (underground cable) and excavation of land within an area zoned “CA” on the approved Clear Water Bay Peninsula North OZP. 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 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 are essential infrastructure projects with overriding public interest may be permitted. According to the applicant, the proposed installation will provide electricity for the concerned farm located to the immediate west of the Site (**Plan A-2**). According to the Notes of the OZP, ‘Agricultural Use (other than Plant Nursery)’ is always permitted within the “CA” zone. While the proposed installation and associated excavation of land are not entirely in line with the planning intention of the “CA” zone, they would enable provision of electricity to facilitate the operation of an always permitted agricultural use. As such, sympathetic consideration could be given to the application.
- 11.2 The applicant indicates that the proposed installation will provide electricity for genuine need of the permitted agricultural use including outdoor lighting, ventilation, closed circuit television, irrigation and sewerage systems, as well as farm tools and machines for the concerned farm located to the immediate west of the Site (**Plan A-2**). Comparing with the previous application (No. A/SK-CWBN/58) submitted by the same applicant for proposed public utility installation (including five 10m high LV poles, two 18m and 10m long underground cables and a 127 long overhead cable) and associated excavation of land of about 33m<sup>2</sup>, the scale of the proposed installation has been substantially reduced to an 18m underground cable (excavation of land of about 18m<sup>2</sup>) to provide electricity to the concerned farm.
- 11.3 Whilst the Site is located at an area of rural fringe landscape character surrounded by woodlands, with recreational areas and active farmlands, the proposed installation falls within the alignment of an existing local track, is small in scale and no tree felling/vegetation clearance would be involved. CTP/UD&L of PlanD considers that the proposed works is not incompatible with the landscape character of the surrounding environment and DAFC has no adverse comment on the application. Given the above context, it is considered that the proposed installation and associated excavation works are not incompatible with the environment.
- 11.4 Other government departments, including DEP, CE/MS of DSD, H(GEO), CEDD and DEMS, have no objection to or no adverse comment on the application on technical aspects.
- 11.5 There is a similar application (No. A/SK-CWBN/37) for proposed public utility installation, which partly falls within the same “CA” zone, and partly within the “GB” and “V” zones on the OZP. It was approved with conditions by the Committee on 22.1.2016 on the grounds that the proposed works are essential

installation for the village house development, and no tree felling and adverse impacts are anticipated. As the proposed installation is to provide electricity to facilitate the operation of the permitted agricultural use and no tree felling/vegetation clearance would be involved, approval of the current application is generally in line with the Committee's previous decision.

- 11.6 The supporting comments on the application are noted. Regarding the public comments objecting to/ raising concerns on the application, the assessments in paragraphs 11.1 to 11.5 above are relevant. It should be noted that part of the Site previously involved in unauthorized excavation and filling of land has already been reinstated.

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

- 12.1 Based on the assessment made in paragraph 11 and taking into account the public comments in paragraph 10, 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 **10.12.2025**, 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 advisory clauses are suggested for Members' consideration:

### **Advisory Clauses**

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

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed installation is not in line with the planning intention of the "Conservation Area" zone which is primarily 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 country park from the adverse effects of development. There is a general presumption against development within this zone. The applicant fails to demonstrate that the proposed installation is essential infrastructure project with overriding public interest and provide strong justification for a departure from the planning intention.

## **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 clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 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**

<b>Appendix I</b>	Application form and attachments received on 9.4.2021
<b>Appendix Ia</b>	Further Information received on 12.10.2021 and 15.10.2021
<b>Appendix II</b>	Similar Application
<b>Appendix III</b>	Public Comments
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Location Plan submitted by the applicant
<b>Drawing A-2</b>	Section Plan submitted by the applicant
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
DECEMBER 2021**