

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-CWBS/42

- Applicant** : CLP Power Hong Kong Limited represented by Kum Shing (K.F.) Construction Company Limited
- Site** : Government Land in D.D. 230, Sheung Sze Wan, Sai Kung
- Site Area** : About 91m²
- Land Status** : Government Land (GL)
- Plan** : Approved Clear Water Bay Peninsula South Outline Zoning Plan No. S/SK-CWBS/2 (the OZP)
- Zoning** : “Conservation Area” (“CA”)
- Application** : Proposed Public Utility Installation (Poles and Underground Cables) and Associated Excavation of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed public utility installation (poles and underground cables) and associated excavation of land at the application site (the Site), which falls within an area zoned “CA” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Public Utility Installation’ and excavation of land within the “CA” zone require permission from the Town Planning Board (the Board).
- 1.2 The Site is currently partly an unpaved track and partly a densely vegetated slope (**Plan A-3**). According to the applicant, the proposed installation, which will supply electricity to an adjacent farm¹, includes four poles (1m(L) x 1m(W) x 10.5m(H) x 1.8m(D) each) with eight stay wires (1m(L) x 1m(W) x 1.5m(D) each) and three portions of 380V underground cables (1m(W) x 1.2m(D) each, with a total length of 79m). The proposed excavation works area is about 91m² with a

¹ There is an existing metre box in the adjacent farm (at the southern tip of Lot 140 in D.D. 230), which was approved under application No. A/SK-CWBS/36 for proposed excavation and filling of land (installation of electricity meter kiosk for permitted agricultural use) (**Plans A-2 and A-4a**) by the Rural and New Town Planning Committee (the Committee) on 5.2.2021 mainly on sympathetic considerations that electricity supply was required to facilitate the permitted agricultural use, and no adverse impact on surrounding areas was anticipated.

depth of not more than 1.8m. Upon completion of the installation works, the applicant will backfill the Site to the original level. The layout plan, elevation plan and section 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 received on 3.8.2022 (Appendix I)
- (b) Further information (FI) received on 6.9.2022 (Appendix Ia)
[Accepted and exempted from publication and recounting requirements]

1.4 The application has been deferred once for two months by the Committee on 23.9.2022 as requested by the applicant. The applicant has not submitted any FI within the two-month deferment period.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendices I and Ia** and summarised as follows:

- (a) the existing electricity supply network does not have sufficient capacity to meet the demand of an adjacent farm (at Lot 140 in D.D. 230 to the immediate northeast of the Site within the same “CA” zone) (**Plan A-2**). The proposed installation will meet such demand via connection to an existing meter box at the farm;
- (b) the proposed routing is the most suitable choice with minimal impact on the natural environment;
- (c) no tree felling is required. Fenced tree protection zones (TPZs) will be delineated at least 1.5m away from any trees in the vicinity during the construction period; and
- (d) for excavation works, excavator will be the first choice if the works area is accessible. Otherwise, hand tools will be used to minimise potential impacts on existing trees.

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. 31A) are not applicable to the application.

4. **Previous Application**

There is no previous application at the Site.

5. Similar Applications

- 5.1 There are two similar applications (No. A/SK-CWBS/18 and 28) for proposed public utility installation and associated excavation of land straddling/within the “CA” zone on the OZP (**Plan A-1**).
- 5.2 Application No. A/SK-CWBS/18 for proposed public utility installation (earthing wire) and excavation of land and Application No. A/SK-CWBS/28 for proposed public utility installation (pole with transformer and underground cable) and excavation of land were approved by the Committee on 8.5.2015 and 2.11.2018 respectively mainly on the considerations that the proposed installations were essential for providing electricity serving the surrounding villages, and no adverse impact on surrounding areas was anticipated

6. The Site and Its Surrounding Areas (Plans A-1 to A-4b)

- 6.1 The Site comprises three portions of land:
- (a) the eastern portion is on an unpaved track which leads northward to Siu Hang Hau Road;
 - (b) the middle portion straddles the unpaved track and a densely vegetated slope, and is partly accessible; and
 - (c) the western portion is on the densely vegetated slope and currently inaccessible.
- 6.2 The surrounding areas have the following characteristics:
- (a) to the immediate northeast is Lot 140 in D.D. 230, which is partly under cultivation with a meter box at the southern tip (**Plans A-2 and A-4a**);
 - (b) to the north and south are vegetated slopes within the “CA” zone;
 - (c) to the east and further northeast across a natural streamcourse are vegetated areas within the “Green Belt” zone and the village cluster of Siu Hang Hau and Mau Po within the “Village Type Development” (“V”) zone; and
 - (d) to the west across Sheung Sze Wan Road are village houses within the “V” zone and vegetated slopes within the “CA” zone.

7. Planning Intention

- 7.1 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 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.

- 7.2 According to the Explanatory Statement of the OZP, since excavation of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, and in view of the conservation value of the area within the “CA” zone, permission from the Board is required for such activity within the “CA” zone.

8. Comments from Relevant Government Departments

- 8.1 The following government departments have been consulted and their views are summarised as follows:

Land Administration

- 8.1.1 Comments of the District Lands Officer/Sai Kung, Lands Department:

- (a) no objection to the application;
- (b) the proposed installation on unleased land is permitted under the Block Licence issued to the applicant. Excavation Permit has been issued to the applicant for the proposed works subject to planning approval from the Board;
- (c) the Site is on unleased land including an area under Government Land Licence (GLL) No. S12040 (**Plan A-2**), which was issued for the purpose of unimproved grazing and grass cutting and the growing of pine trees on a non-commercial basis; and
- (d) other comments are included in the advisory clauses at **Appendix III**.

Nature Conservation

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

- (a) he has reservation on the application;
- (b) noting that the proposed installation will encroach onto well vegetated areas within the “CA” zone, he has doubt about the applicant’s claim that no tree felling is required; and
- (c) although tree protection measures have been proposed, the applicant should demonstrate that there is adequate space for setting up the proposed TPZs by providing a plan showing the location of trees in the vicinity of the Site.

Landscape

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

- (a) according to site inspection on 23.8.2022, the Site is partly occupied by dense tree group with (i) rare and precious species *Aquilaria sinensis* (土沉香), (ii) protected species under the Forests and Countryside Ordinance (Cap. 96) *Pavetta hongkongensis* (香港大沙葉), and (iii) a mature size tree *Machilus chekiangensis* (浙江潤楠) (diameter at breast height of about 900mm) found near the middle and western portions. Since no information on existing trees, protected species and proposed landscape treatment is provided in the application, potential landscape impact on the existing landscape resources could not be reasonably ascertained; and
- (b) other comments are included in the advisory clauses at **Appendix III**.

Traffic

8.1.4 Comments of the Commissioner for Transport:

the application is tolerable on traffic ground as the traffic impact arising from the excavation works is not significant.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Director of Environmental Protection;
- (c) Chief Engineer/Mainland South, Drainage Services Department;
- (d) Chief Engineer/Construction, Water Supplies Department;
- (e) Director of Fire Services;
- (f) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (g) Director of Electrical and Mechanical Services;
- (h) District Officer (Sai Kung), Home Affairs Department (HAD); and
- (i) Chief Engineer (Works), HAD.

9. Public Comment Received During Statutory Publication Period

One public comment was received from an individual objecting to the application for reasons that the purpose of the application is unclear and the application appears to facilitate development within the “CA” zone (**Appendix II**).

10. Planning Considerations and Assessments

10.1 The application is for proposed public utility installation (poles and underground cables) and associated excavation of land within an area zoned “CA” zone on the

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. 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 is for supplying electricity to an adjacent farm within the same “CA” zone (**Plan A-2**). Although ‘Agriculture Use’ is always permitted within the “CA” zone, ‘Public Utility Installation’ and excavation of land within the “CA” zone require permission from the Board. The proposed installation with excavation of land, which will intrude into a densely vegetated slope, is not in line with the planning intention of the “CA” zone. The applicant fails to demonstrate that the proposed installation with excavation of land is an essential infrastructure project with overriding public interest that warrants a departure from such planning intention.

- 10.2 The Site is partly occupied by dense tree group with rare and precious species, as well as protected species. While the applicant claims that no tree felling is required and proposes to set up TPZs, DAFC has reservation on the application and doubts that no tree felling is required. Furthermore, since no information on existing trees and protected species, as well as landscape treatment is provided in the application, CTP/UD&L, PlanD advises that the potential landscape impact on existing landscape resources could not be reasonably ascertained. The applicant fails to demonstrate that the proposed installation would not cause adverse landscape impact on the Site and its surrounding area.
- 10.3 Other concerned government departments have no objection to or no comment on the application.
- 10.4 There are two similar applications (No. A/SK-CWBS/18 and 28) for proposed public utility installations and associated excavation of land straddling/within the same “CA” zone (**Plan A-1**). These applications were approved mainly on the considerations that the proposed installations were essential infrastructure projects serving the area and no significant adverse impact was anticipated. However, the applicant of the current application fails to demonstrate that the proposed installation with excavation of land is an essential infrastructure project with overriding public interest and would not cause adverse landscape impact on the Site and its surrounding areas.
- 10.5 Regarding the public comment objecting to the application, the assessment in paragraph 10.1 is 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 does not support the application for the following reasons:
 - (a) the proposed installation with excavation of land is not in line with the planning intention of the “Conservation Area” 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; and

- (b) the applicant fails to demonstrate that the proposed installation with excavation of land would not cause adverse landscape impacts on the application site and its surrounding areas.

11.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 9.12.2026, 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**

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 12.3 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.

13. Attachments

Appendix I	Application Form received on 3.8.2022
Appendix Ia	Further Information received on 6.9.2022
Appendix II	Public Comment
Appendix III	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Elevation Plan
Drawing A-3	Section Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a & A-4b	Site Photos