

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

**APPLICATION NO. A/SK-HC/321**

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

**Site** : Government Land in D.D. 247, Tai Lam Wu, Sai Kung, New Territories

**Site Area** : 136 m<sup>2</sup>

**Land Status** : Government Land

**Plan** : Approved Ho Chung Outline Zoning Plan (OZP) No. S/SK-HC/11

**Zoning** : “Conservation Area” (“CA”)

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

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed public utility installation (underground cable) and excavation and filling of land at the application site (the Site). The Site falls within an area zoned “CA” on the approved Ho Chung OZP No. S/SK-HC/11 (**Plans A-1 and A-2**). According to the Notes of the OZP, ‘public utility installation’ and excavation and filling of land within the “CA” zone require planning permission from the Town Planning Board (the Board).
- 1.2 The Site is mainly located along an existing paved local track, with portions of it on natural slopes partly covered by dense vegetation. The proposal includes laying of an underground cable between two existing poles (Tai Lam Wu ‘B’ and ‘D’) (**Drawing A-1**) and the mounting of low voltage (LV) cutout boxes at the two existing poles. No new above ground structures are proposed to be erected. The associated excavation and filling of land for the underground cables involve an area of 136m (length) x 1m (width) x 1m (depth). According to the applicant, the proposal aims to link up the two separate LV circuits via the two existing poles, so that one circuit can temporarily supply electricity for the other circuit during maintenance works after typhoons, and disruption to the electricity supply after typhoons can be avoided.

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

- (a) Application form and attachments received on (**Appendix I**) 30.7.2020
- (b) Further Information (FI) including a tree survey and (**Appendix Ia**) a vegetation survey received on 23.10.2020 (accepted and not exempted from publication)

1.4 The location plan and the section of the cable trench submitted by the applicant are shown in **Drawings A-1** and **A-2** respectively.

1.5 On 18.9.2020 and 18.12.2020, the Rural and New Town Planning Committee (the Committee) agreed to defer a decision on the application as requested by the applicant for the submission of FI. The applicant submitted FI after the first deferment as indicated in paragraph 1.2 above. However, no further submissions of FI have been made by the applicant after the second deferment. 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 at **Appendix I** and the FI at **Appendix Ia**. They can be summarised as follows:

- (a) with reference to the post-typhoon review, a 11kV Overhead Line pole mount switch and LV interconnector are proposed to be built by the applicant between two existing poles in Tai Lam Wu Village. The proposed laying of underground cable is required;
- (b) there is a need to link up the LV circuits at the two existing poles, so that one circuit can temporarily supply electricity for the other circuit during maintenance works after typhoons, while the power for the other circuit is being shut down. Intrusion into the “CA” zone is unavoidable; and
- (c) new underground cables laid inside the “CA” zone would only have minor impacts to the existing landscape. No visual impacts would incur after the underground cable laying works, and no tree felling is required.

## 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. **Previous Application**

There is no previous application covering the Site.

#### 5. **Similar Application (Plan A-1)**

There is one similar application (No. A/SK-HC/297) for proposed public utility installation (underground cables) and excavation and filling of land within the same “CA” zone on the OZP. The application was approved by the Committee on 17.8.2018 mainly on the grounds that the proposed underground cables and associated works are essential facilities for supplying electricity for the residents; and no adverse impacts on the surrounding areas are anticipated.

#### 6. **The Site and Its Surrounding Areas (Plans A-1 and A-2, Aerial Photo on Plan A-3 and Site Photos on Plans A-4a and A-4b)**

6.1 The Site is:

- (a) located in the fringe of the “CA” zone and mainly within the “Village Environs” of Tai Lam Wu;
- (b) mainly located along an existing paved local track, with portions on natural slopes partly covered by dense vegetation; and
- (c) accessible by the local track connecting to Tai Lam Wu Road.

6.2 The surrounding areas have the following characteristics:

- (a) to the north are vacant land and village houses of Tai Lam Wu falling within the “Village Type Development” (“V”) zone; and
- (b) to the west and south are natural slopes covered with dense vegetation within the “CA” zone.

#### 7. **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.

## 8. **Comments from Relevant Government Departments**

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

### **Land Administration**

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

- (a) no objection to the application;
- (b) the applicant is required to submit an Excavation Permit application for their Excavation Layout Plan. Subject to obtaining planning approval, his Office will issue an Excavation Permit to the applicant for the proposed works related to this planning application;
- (c) the proposed Public Utility Installation and excavation/filling works for the planning application falls on Government Land. As Government Land Licence No. S8967 is affected, the applicant is required to consult the concerned licensee prior to commencement of works; and
- (d) as the Site encroaches Water Gathering Ground, the applicant should seek the comment from Water Supplies Department prior to commencement of works.

### **Nature Conservation**

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

- (a) no in-principle objection to the application given the limited scale of the proposed utility installation. Nevertheless, there is concern on the FI (**Appendix Ia**) with inconsistent details and inadequate and inaccurate data;
- (b) the FI (**Appendix Ia**) is unacceptable as the location where the Tree Survey and Vegetation Survey were undertaken does not cover the whole Site. Moreover, the site plan (**Drawing A-1**) in the original submission shows that the underground cable extends further beyond the existing pole Tai Lam Wu 'D' by at least 15m, whereas the photos in the tree survey report show that the cable stops at Tai Lam Wu 'D'. The tree survey plan should show the crown spread of each surveyed tree, and all trees which have their dripline intercepting the proposed works area should be included in the tree survey;

- (c) it is noted from the photo records provided in the Vegetation Survey Report that the plant identified as “*Pteris multifida*” (Shrub – 2) should be *Cibotium barometz* (金毛狗) which is listed in “Rare and Precious Plants of Hong Kong”. If any such species is identified in the works area, its location should be shown on a plan together with the alignment of the underground cable, and the alignment of the cable should be reviewed to ensure that the excavation works area does not interfere with the plants concerned;
- (d) mitigation measures, such as preservation *in-situ* or transplantation, should be proposed if impacts to plants of conservation importance are unavoidable in this case; and
- (e) should the application be approved, an approval condition requiring the submission of a revised tree and vegetation survey and the implementation of the mitigation measures identified therein to the satisfaction of the DAFC or of the Board is suggested to be included.

### **Landscape**

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

- (a) the major portion of the Site is mainly along the existing concrete track with no impact on existing landscape resources. However, the southwestern portion of the Site falls within a mature secondary woodland on a slope with existing vegetation, including native trees *Ficus langkokensis* (青藤公), *Garcinia oblongifolia* (嶺南山竹子) and *Antidesma bunius* (五月茶) as well as rare and precious plant *Cibotium barometz* (金毛狗), within and adjoining the site boundary in the vicinity, which would be in conflict with the proposed excavation works. However, no relevant information on the existing vegetation, including trees and their proposed landscape treatments to minimise adverse impact on existing landscape resources have been provided by the applicant in the FI (**Appendix Ia**). Hence, the potential landscape impacts arising from the proposed works cannot be reasonably ascertained. In view of the above, there is reservation on the application from landscape planning perspective;
- (b) the applicant should seek comments and approval from the relevant authority on the proposed tree works, dead tree removal and compensatory planting proposal, where appropriate; and
- (c) the applicant is reminded to avoid damaging the rare and precious species and the roots of the existing trees especially those within the dripline as far as practicable.

### **Traffic**

8.1.4 Comments of the Assistant Commissioner for Transport/New Territories (AC for T/NT):

- (a) no in-principle objection to the subject application from traffic engineering viewpoint; and
- (b) the access road leading to the Site is not managed by the Transport Department. The applicant should check the status of the road and clarify the management and maintenance responsibilities of the same road accordingly.

### **Water Supply**

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

- (a) no objection to the application;
- (b) the Site is in close vicinity of existing water mains. The applicant should be requested to observe the “Conditions of Working in the Vicinity of Waterworks Installations” (**Annex A** of **Appendix III**); and
- (c) the Site also falls within water gathering grounds. The applicant should also be requested to observe the “Conditions for Working within Gathering Grounds” (**Annex B** of **Appendix III**).

### **Electricity Supply Aspect**

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

- (a) no particular comment on the application from electricity supply safety aspect; and
- (b) the applicant should be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

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

- (a) Chief Building Surveyor/New Territories East 2 & Rail, Buildings Department;
- (b) Chief Engineer/Mainland South, Drainage Services Department;
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (d) Chief Engineer (Works), Home Affairs Department;
- (e) Chief Highways Engineer/New Territories East, Highways Department;
- (f) Director of Environmental Protection;
- (g) District Officer (Sai Kung), Home Affairs Department;
- (h) Director of Fire Services; and
- (i) Director of Health.

## 9. **Public Comments Received During Statutory Publication Periods**

On 11.8.2020 and 3.11.2020, the application and FI were published for public inspection respectively. During the statutory public inspection periods, four public comments were received from Designing Hong Kong Limited, a Sai Kung District Council Member and an individual (submitted twice) (**Appendix II**) all objecting to and raising concerns on the application with similar grounds that the proposed development is not in line with the planning intention of the “CA” zone, the proposed development is considered as a suspected “destroy first, develop later” case<sup>1</sup>; the proposed works could be moved to the “V” zone nearby; the proposed works would bring adverse impacts to the natural environment and habitat within Ma On Shan Country Park; and setting an undesirable precedent.

## 10. **Planning Considerations and Assessments**

10.1 The application is to seek planning permission for proposed public utility installation (underground cable) and excavation and filling of land within an area zoned “CA” 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 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. According to the submission, the proposed underground cables and associated excavation and filling works could strengthen the resilience of the electricity supply system by enabling temporary electricity supply from one existing circuit to another in case of a post-typhoon maintenance, thus avoiding disruption to electricity supply. However, there is no information in the submission to justify that the

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<sup>1</sup> The northeastern portion of the Site is the subject of a previous planning enforcement case against unauthorised development (“UD”) involving land filling, dumping and site formation. The Enforcement Notice (EN) and the Reinstatement Notice (RN) were issued to the concerned lot owners. The UD has been discontinued and Compliance Notices in relation to the EN and the RN were issued in 2019.

current proposal, which intrudes into areas covered by natural vegetated slopes within the “CA” zone, is the only option to achieve the objective. It is also noted that the alignment of the excavation works area proposed extends beyond the existing pole Tai Lam Wu ‘D’ into a natural slope by at least 15 meters (**Plan A-2**). In this regard, the applicant fails to justify that the proposed works and the scope of works are essential with overriding public interest.

- 10.2 The Site is mainly located on an existing paved track, with portions located on natural slopes partly covered by dense vegetation, where a number of existing vegetation, including native trees *Ficus lankokensis* (青藤公), *Garcinia oblongifolia* (嶺南山竹子) and *Antidesma bunius* (五月茶), as well as rare and precious plant *Cibotium barometz* (金毛狗), can be found within and adjoining the site boundary in the vicinity. CTP/UD&L, PlanD has reservation on the application as no relevant information on the existing vegetation including trees and their proposed landscape treatments to minimise adverse impact on existing landscape resources have been provided in the FI (**Appendix Ia**). The potential landscape impacts arising from the proposed works cannot be reasonably ascertained. Besides, whilst DAFC has no in-principle objection to the application given the limited scale of the proposed works, he considers the FI (**Appendix Ia**) is unacceptable in that the location where the Tree Survey and the Vegetation Survey were undertaken does not cover the whole Site. Moreover, DAFC observes that the rare and precious plant *Cibotium barometz* (金毛狗) has been misidentified as another common species in the Vegetation Survey. No mitigation measures are proposed in the submission to address the potential adverse impacts induced by the proposed works. The applicant thus fails to demonstrate that the proposed works would not cause adverse landscape impacts on the area as the impacts of the proposed works on the natural vegetation on the Site and its vicinity cannot be comprehensively assessed and effectively mitigated.
- 10.3 Other relevant government departments, including CE/Construction, WSD and DEMS have no objection to or comment on the application on technical aspects.
- 10.4 There is one similar application (No. A/SK-HC/297) for laying of underground cables and associated excavation and filling works which was approved by the Committee on grounds that the proposed works were essential facilities to extend the electricity network serving the local area and no adverse impacts on the surrounding areas were anticipated. For the current application, the applicant fails to demonstrate that the proposal is essential in terms of its routing through the natural vegetated areas in the “CA” zone and would not cause adverse landscape impacts on the Site and the surrounding area.
- 10.5 Regarding the four public comments objecting to the application on grounds as detailed in paragraph 9 above, the assessments in paragraphs 10.1 to 10.4 above are relevant.



## 11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10, and having taken into account the public comments mentioned in paragraph 9, the Planning Department does not support the application for the following reasons:
- (a) the proposed public utility installation and excavation and filling of land 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 works and scope of works are essential, and provide strong justification to justify a departure from the planning intention of the "Conservation Area" zone; and
  - (b) the applicant fails to demonstrate that the proposed works would not cause adverse landscape impacts on the Site and the surrounding area.
- 11.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 12.3.2025, 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 condition of approval and advisory clauses are suggested for Members' consideration:

### Approval Condition

the submission of a revised tree and vegetation survey and the implementation of the mitigation measures identified therein to the satisfaction of the Director of Agriculture, Fisheries and Conservation or of the Town Planning Board.

### Advisory Clauses

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**

<b>Appendix I</b>	Application form received on 30.7.2020
<b>Appendix Ia</b>	FI received on 23.10.2020
<b>Appendix II</b>	Public Comments
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Location plan
<b>Drawing A-2</b>	Section plan
<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plans A-4a and A-4b</b>	Site photos

**PLANNING DEPARTMENT  
MARCH 2021**