

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

**APPLICATION NO. A/SK-PK/279**

<b><u>Applicant</u></b>	:	Ms. IP Siu Hung
<b><u>Site</u></b>	:	Lot 152 RP in D.D. 220 (Part) and Adjoining Government Land (GL), Sai Kung
<b><u>Site Area</u></b>	:	About 46m <sup>2</sup> (including about 43m <sup>2</sup> GL)
<b><u>Land Status</u></b>	:	(a) Private Land (7%) – Old Schedule Agricultural Lot held under the Block Government Lease; and (b) GL (93%)
<b><u>Plan</u></b>	:	Approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No. S/SK-PK/11
<b><u>Zoning</u></b>	:	“Conservation Area” (“CA”)
<b><u>Application</u></b>	:	Proposed Utility Installation for Private Project (Meter Room and Underground Cable for Permitted Agricultural Use) and Associated Excavation of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed utility installation for private project (meter room and underground cable for permitted agricultural use) and associated excavation of land at the application site (the Site). The Site falls within an area zoned “CA” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Utility Installation for Private Project’, which is a Column 2 use, and excavation of land within the “CA” zone require permission from the Town Planning Board (the Board).
- 1.2 The Site is currently covered by dense vegetation with mainly bushes and a structure at the northern portion (**Plans A-4a and A-4b**). According to the applicant, the proposed installation, which will supply electricity to the adjacent farm at Lots 152 S.A and 152 RP in D.D. 220 for irrigation purpose, includes an electricity meter room to be housed in the said structure within the private lot (1.4m(L) x 1.2m(W) x 2.1m(H)), and underground cables with length of 43m within GL (**Plan A-2**). The proposed excavation works area is about 46m<sup>2</sup> with a depth of about 1m. 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 15.11.2022                                 | <b>(Appendix I)</b>  |
| (b) Supplementary information received on 17.11.2022                        | <b>(Appendix Ia)</b> |
| (c) Further information received on 20.12.2022                              | <b>(Appendix Ib)</b> |
| <i>[accepted and exempted from publication and recounting requirements]</i> |                      |

## **2. Justifications from the Applicant**

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

the proposed installation is for supplying electricity to the adjacent farm at Lots 152 S.A and 152 RP in D.D. 220 for irrigation purpose. Other than weeds and vines, there are no trees within the Site.

## **3. 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. The “owner’s consent/notification” requirements are not applicable to the GL portion of the Site.

## **4. Background**

- 4.1 The northern portion of the Site was part of the subject of two planning enforcement cases against unauthorized developments (UDs) involving filling of land and excavation of land (**Plan A-2**). Enforcement Notice and Reinstatement Notice under the latest enforcement case were issued on 17.2.2022 and 18.5.2022 respectively. Subsequent site inspections revealed that the UD had been discontinued and the concerned site had been reinstated. Compliance Notices were issued on 10.11.2022 and 11.11.2022 accordingly.
- 4.2 Subsequent to the issuance of the above notices, the Site and its surroundings will continue to be monitored. Should there be sufficient evidence that there are UD (including those alleged unauthorized recreational uses as mentioned in paragraph 10.3 below) under the Town Planning Ordinance, further planning enforcement actions would be taken as appropriate.
- 4.3 As for the existing structure within the northern part of the Site proposed to be used as an electricity meter room (**Plan A-4a**), it was observed that the structure was being constructed on site without obtaining necessary approvals (including planning permission) when the previous Application No. A/SK-PK/266 was being processed in 2021. In this regard, comments of the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD) in paragraph 9.1.1 below in relation to unauthorized building works on the subject private lot that constitute lease

breaches are relevant.

## 5. **Previous Applications**

The northern portion of the Site was part of the subject of two previous applications submitted by the same applicant covering larger sites and involving more extensive excavation in addition to the filling of land. Application No. A/SK-PK/263 for proposed filling and excavation of land for permitted agricultural use was rejected by the Committee on 30.4.2021 mainly for the reasons that the proposed works were not in line with the planning intention of the “CA” zone; the applicant failed to demonstrate that the proposed works would not have adverse environmental and landscape impacts on the surrounding area; and approval of the application would set an undesirable precedent for similar applications within the “CA” zone. Application No. A/SK-PK/266 for proposed filling and excavation of land (installation of electricity meter and water meter, and for permitted agricultural use) was withdrawn by the applicant on 18.10.2021. Details of the applications are summarised in **Appendix II** and their locations are shown in **Plans A-1 and A-2**.

## 6. **Similar Application**

There is no similar application for proposed utility installation for private project and associated excavation of land in the vicinity of the same “CA” zone on the OZP.

## 7. **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**)

### 7.1 The Site is:

- (a) adjoining Keng Pang Ha Road in the south and a farm in the north;
- (b) predominantly covered by dense vegetation with mainly bushes; and
- (c) occupied by an existing structure at the northern portion (**Plan A-4a**).

### 7.2 The surrounding areas have the following characteristics:

- (a) there is a farm adjoining to the north of the Site (namely ‘Nam Shan Sai Kung Organic Farm’) where plots of cultivated land and temporary structures including tents, huts and a pavilion are found (**Plans A-4a and A-4b**);
- (b) to the immediate west, some trees are observed;
- (c) to the north is hillside mature woodland with a natural water course; and
- (d) to the further north and west is Ma On Shan Country Park.

## **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 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 are summarised as follows:

### **Land Administration**

9.1.1 Comments of the DLO/SK, LandsD:

- (a) the Site falls on a portion of Lot 152 RP in D.D. 220 and a piece of adjoining unallocated GL. The private lot is an Old Schedule Agricultural Lot 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) he has reservation on the application since there are unauthorized building works and/or uses on the private lot which is already subject to lease enforcement action according to case priority. The lot owner should rectify/regularise the lease breaches as demanded by LandsD. There is no permission given for occupation of the GL included in the Site. Any occupation of GL without Government’s prior approval is not allowed; and
- (c) other comments are included in the advisory clauses at **Appendix IV**.

### **Nature Conservation**

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

the proposed location for the utility installation is covered with common plant species. He has no adverse comment on the application.

### **Urban Design and Landscape**

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

- (a) with reference with the latest site photos (**Plans A-4a and A-4b**), it is observed that the Site and the vicinity is significantly covered by dense

bushes and existing trees. Since there is no information of existing trees in the vicinity provided by the applicant, the potential adverse impact on the existing landscape resources from the proposed developments cannot be ascertained. The applicant should advise whether the proposed developments would cause any adverse impacts on the existing vegetation, and indicate the existing trees/ tree group location on the proposed layout plan for consideration; and

- (b) other comments are included in the advisory clauses at **Appendix IV**.

### **Environment**

#### 9.1.4 Comments of the Director of Environmental Protection:

- (a) in view of the nature and scale of proposed utility installation works, no adverse environmental issue is anticipated with implementation of appropriate pollution control measures. She has no objection to the application;
- (b) nevertheless, according to their record, part of the Site was subject to a complaint in January 2021 concerning formation of an access road within the “CA”. In this regard, although the application has not included any proposal for the construction of access road, the applicant should be reminded to observe the relevant requirements in accordance to the Environmental Impact Assessment Ordinance. Detailed comments are included in the advisory clauses at **Appendix IV**.

### **Traffic**

#### 9.1.5 Comments of the Commissioner for Transport:

as the traffic impact during the excavation process is not significant, she considers the application tolerable on traffic ground.

### **Water Supply**

#### 9.1.6 Comments of the Chief Engineer/Construction, Water Supplies Department:

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

### **Electricity Supply**

#### 9.1.7 Comments of the Director of Electrical and Mechanical Services:

- (a) no particular comment on the application from electricity supply safety aspect; and
- (c) other comments are included in the advisory clauses at **Appendix IV**.

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

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

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

10.1 On 22.11.2022, the application was published for public inspection. During the statutory publication period, a total of 150 comments were received, including 141 supporting comments and nine opposing comments. A full set of the public comments is deposited at the meeting for Members' inspection.

10.2 The 141 supporting comments (all in standard letters in two different formats, samples at **Appendix IIIa**) are submitted by the indigenous inhabitant representative of Nam Shan villages and individuals mainly on the grounds that the proposed installation will facilitate irrigation of crops at the farm, which in turn support agricultural industry in Hong Kong.

10.3 The nine opposing comments (**Appendix IIIb**) are submitted by individuals mainly on the reasons that the proposed installation is to support a farm in which suspected UD's including holiday camp and hobby farm are observed. The proposed installation will encourage the improper use of the concerned site and induce noise, air and water quality impacts on the surrounding area.

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

11.1 The application is for proposed utility installation for private project (meter room and underground cable for permitted agricultural use) and associated excavation 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. 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, 'Utility Installation for Private Project' and excavation of land within the "CA" zone require permission from the Board. The proposed meter room is to be housed in a structure already constructed on land formed without prior permission from the Board, whereas the proposed underground cables with excavation of land will intrude into an area occupied by dense vegetation with bushes and existing trees in the vicinity. The proposed

installation with excavation of land, which is expected to intrude into areas covered with dense vegetation, 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.

- 11.2 The Site is predominantly covered and surrounded by dense vegetation with bushes and trees. The applicant claims that there are no trees within the Site. However, no information of existing trees in the vicinity of the Site has been provided. Whilst DAFC has no adverse comment on the application as the proposed location for the installation is covered with common plant species, CTP/UD&L, PlanD advises that the potential adverse impact on existing landscape resources from the proposed development cannot be ascertained in the lack of the required information on existing trees. The applicant fails to demonstrate that the proposed installation with excavation of land would not cause adverse landscape impacts on the Site and its surrounding areas.
- 11.3 The northern portion of the Site (i.e. where the meter room is proposed) was part of the subject of two previous applications (i.e. No. A/SK-PK/263 and No. A/SK-PK/266) submitted by the same applicant covering larger sites and involving more extensive excavation in addition to the filling of land (**Plans A-1 and A-2**). The latter application was withdrawn, and the former application was rejected by the Committee in 2021 mainly for the reasons of being not in line with the planning intention of the “CA” zone and causing adverse environmental and landscape impacts on the surrounding area as summarised in paragraph 5 above. As compared with the previously rejected application, the current application involves less intensive site formation works and is predominantly for utility installation, however, the applicant still fails to demonstrate that the currently proposed use and development are in line with the planning intention of the “CA” zone and would not cause adverse landscape impacts. Rejection of the current application is consistent with the Committee’s previous decision.
- 11.4 DLO/SK, LandsD has reservation on the application since there are unauthorized building works and/or uses on the private lot forming part of the Site, which is already subject to lease enforcement action. While land administration issues should be handled separately, the lot owner should be advised to rectify/regularise the lease breaches as demanded by LandsD.
- 11.5 Other concerned government departments have no objection to or no adverse comment on the application. The recommended advisory clauses are in **Appendix IV**.
- 11.6 The supporting public comments are noted. Regarding the public comments objecting to the application mainly on the ground that the proposed installation would facilitate the unauthorized recreational uses at the adjoining farm, enforcement action against UD would be taken should there be sufficient evidence.

## **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, 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.

12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until **13.1.2027**, 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 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**

<b>Appendix I</b>	Application Form received on 15.11.2022
<b>Appendix Ia</b>	Supplementary Information received on 17.11.2022
<b>Appendix Ib</b>	Further Information received on 20.12.2022
<b>Appendix II</b>	Previous Applications
<b>Appendices IIIa and IIIb</b>	Public Comments - Samples
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Elevation Plan
<b>Drawing A-3</b>	Section Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo



**Plans A-4a and A-4b**

Site Photos

**PLANNING DEPARTMENT  
JANUARY 2023**