

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-PK/286

<u>Applicant</u>	:	CLP Power Hong Kong Limited (CLP) represented by Kum Shing (K.F) Construction Company Limited
<u>Site</u>	:	Government Land (G.L.) in D.D. 219, Mang Kung Wo Road, Sai Kung, New Territories
<u>Site Area</u>	:	About 75m ²
<u>Land Status</u>	:	G.L.
<u>Plan</u>	:	Approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No. S/SK-PK/11
<u>Zoning</u>	:	“Conservation Area” (“CA”)
<u>Application</u>	:	Proposed Public Utility Installation (Underground Cables) and Associated 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 Site falls within an area zoned “CA” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Public Utility Installation’, 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 paved and serves as an existing road and track connecting to Mang Kung Wo Road (**Plans A-4a** and **A-4b**). According to the applicant, the proposed installation is for provision of electricity supply to Lot 160 in D.D. 219 for warehouse purpose located to the immediate north and east of the Site (**Plan A-2**). The proposal includes excavation of land (about 75m² in area and 1.2m in depth) for the installation of two 380V underground cables (35m(L) x 1m(W) x 1.2m(D), and 40(L) x 1m(W) x 1.2m(D)). Upon completion of the proposed works, the Site will be backfilled to the original level. The layout plan and section plan submitted by the applicant are at **Drawings A-1** and **A-2**.

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

- (a) Application form received on 14.6.2023 (Appendix I)
- (b) Further information received on 6.7.2023 (Appendix Ia)
[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 in **Appendices I and Ia** and summarised as follows:

- (a) the proposed installation is for provision of electricity supply to the adjacent Lot 160 in D.D. 219 near Mang Kung Wo Road for warehouse purpose;
- (b) to enhance the electricity supply network to Mang Kung Wo Road, new underground cables are proposed to be laid to connect the existing underground cable, which is already inside the “CA” zone, and there is no other possible alternative for the proposed works but to lay underground cables in the “CA” zone; and
- (c) no visual impact would be incurred after the underground cable laying works and the method is the best with least environmental impact.

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

As the Site involves G.L. 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

Lot 160 in D.D. 219, which the proposed installation is intended to serve, is located within the same “CA” zone adjoining to the north and east of the Site. The northern portion of the concerned lot is fenced and largely vacant with only two graves and a small structure (**Plan A-4b**). The southern portion of the lot (i.e. to the south of the existing road) is mainly occupied by graves. While the applicant states that the proposed installation is for providing electricity to the concerned lot for warehouse purpose, no relevant planning application was received or no valid planning permission was granted for the lot.

5. Previous Application

There is no previous application at the Site.

6. Similar Applications

- 6.1 There are two similar applications (No. A/SK-PK/91 and 275) for proposed public utility installation (both electricity supply related) within the same “CA” zone approved by the Committee in 1999 and 2022 respectively. They were approved mainly on the grounds that the proposed installations were for improving the reliability of electricity supply to the Sai Kung area and for supplying electricity to the nearby village houses, which could be considered as essential infrastructure projects.
- 6.2 Another recent similar application (No. A/SK-PK/279) for utility installation for private project (meter room and underground cable for permitted agricultural use) and associated excavation of land was rejected by the Committee on 13.1.2023 mainly for the reasons that the proposed installation with excavation of land was not in line with the planning intention of the “CA” zone, and the applicant failed to demonstrate that the proposed installation was an essential infrastructure project with overriding public interest and the proposal would not cause adverse landscape impacts on the application site and its surrounding areas.
- 6.3 Apart from the above processed similar applications, another two additional similar applications (No. A/SK-PK/287 and 288) within the same “CA” zone are under processing.
- 6.4 Details of these applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

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) paved and used as an existing road and track connecting to Mang Kung Wo Road; and
 - (b) with a minor portion falling within the water gathering grounds (WGGs).
- 7.2 The surrounding areas have the following characteristics:
 - (a) to the immediate north and east is Lot 160 in D.D. 219, which the proposed utility installation is intended to serve for warehouse purpose and currently majority part of the lot is vacant with graves and a small structure;
 - (b) to the east and west is a graveyard commonly known as “Kei Pik Shan Cemetery”¹;
 - (c) to the south is Mang Kung Wo Road; and

¹ The area of “Kei Pik Shan Cemetery” was designated as burial grounds by the then District Officer, South (南約理民府) in 1969 and is under the management of Sai Kung Rural Committee.

- (d) to the further north, west and south is hillside with mature woodland.

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 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.
- 8.2 As stated in the Explanatory Statement of the OZP, excavation of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment.

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 District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD):

- (a) no objection to the application;
- (b) the proposed utility installation on the unleased G.L. is permitted under the Block Licence issued to the applicant (CLP);
- (c) there is an excavation permit application received for the purpose of low voltage cable laying submitted by the applicant, which is under processing; and
- (d) the proposed utility installation has not encroached on any existing emergency vehicular access (EVA) provision or planned EVA.

Nature Conservation

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

no comment on the application in view that the proposed utility installation is along an existing road.

Landscape

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

- (a) no comment on the application from landscape planning perspective;
- (b) the Site is situated in an area of upland and hillsides landscape character predominated by graveyard and woodland as observed from the aerial photo in 2022 (**Plan A-3**). The proposed use is considered not incompatible with the surrounding environment;
- (c) as no tree felling is required according to the applicant and the Site is located along the existing roads, significant landscape impact arising from the proposed use is not anticipated; and
- (d) other comments are included in the advisory clauses at **Appendix IV**.

Environment

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

- (a) no objection to the application;
- (b) the proposed development would involve the installation of two 380V underground cables and associated excavation of land of about 1.2m depth. In view of the scale and nature of the proposed works, no adverse environmental impact is anticipated; and
- (c) other comments are included in the advisory clauses at **Appendix IV**.

Traffic

9.1.5 Comments of the Commissioner for Transport (C for T):

no adverse comment on the application from traffic engineering viewpoint.

Water Supply

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

- (a) no objection to the application;
- (b) as the Site falls within the water works tunnel reserve and partially falls within the upper indirect WGGs, should the application be approved, the applicant shall carry out the proposed installation in compliance with the conditions for the proposed excavation works and the Conditions for Working within Gathering Grounds; and
- (c) other comments are included in the advisory clauses at **Appendix IV**.

Electricity Supply Safety

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

- (a) no particular comment on the application as far as electricity supply safety and reliability are concerned; and
- (b) 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) District Officer (Sai Kung), Home Affairs Department (HAD);
- (b) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (c) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (d) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (e) Director of Fire Services; and
- (f) Chief Engineer (Works), HAD.

10. Public Comment Received During Statutory Publication Period

On 23.6.2023, the application was published for public inspection. During the statutory publication period, one public comment on the application was received from an individual, opposing the application mainly on the grounds that the proposed installation involves excavation of G.L. and within the “CA” zone; the end use will be detrimental to the preservation of the local environment and the planning intention of the conservation area; and further erosion of the important ecological habitat cannot be tolerated (**Appendix III**).

11. Planning Considerations and Assessments

11.1 The application is for proposed public utility installation (underground cable) and associated excavation of land 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 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. Excavation of land may cause adverse drainage and environmental impacts on the surrounding areas. According to the applicant, the proposed underground cables installation is for provision of electricity supply to Lot 160 in D.D. 219 for warehouse purpose (**Plan A-2**). However, the concerned lot is not covered by any valid planning permission for warehouse purpose. The proposed underground cables installation with excavation of land is not in line with the

planning intention of the “CA” zone. The applicant fails to demonstrate the proposed installation with excavation of land is an essential infrastructure project with overriding public interest that warrants a departure from the planning intention.

- 11.2 The Site is along existing road/ track (**Plan A-3**). According to the applicant, no tree felling is required for the proposed installation and excavation of land. CTP/UD&L, PlanD considers that the proposed use is not incompatible with the surrounding environment and has no comment on the application from landscape planning perspective as significant landscape impact arising from the proposed use is not anticipated. DAFC also has no comment on the application from nature conservation perspective considering that the proposed utility installation is along an existing road.
- 11.3 The Committee has approved two similar applications (No. A/SK-PK/91 and 275) in 1999 and 2022 respectively mainly on the grounds that the proposed installations could be considered as essential infrastructure projects. Another similar application (No. A/SK-PK/279) was rejected by the Committee in 2023 for the reasons stated in paragraph 6.2 above. The circumstances of the current application are different from those of the approved similar applications but similar in nature with the rejected application as the applicant has not provided sufficient information to demonstrate the necessity of the proposed utility installation. In view of the above, rejecting the current application is generally in line with the Committee’s previous decisions.
- 11.4 Other concerned government departments including DEP, CE/MS, DSD, C for T, CHE/NTE, HyD, DEMS, CE/C, WSD have no objection to or no adverse comment on the application from environmental, drainage, traffic, public roads maintenance, electricity supply safety and water supply aspects respectively.
- 11.5 Regarding the public comment objecting to the application, the departmental comments in paragraph 9 and the 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 comment mentioned in paragraph 10, the Planning Department does not support the application for the following reason:

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.

- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until **11.8.2027**, 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

Appendix I	Application Form received on 14.6.2023
Appendix Ia	Further Information received on 6.7.2023
Appendix II	Similar Applications
Appendix III	Public Comment
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Section Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
AUGUST 2023**