

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-PK/292

- Applicant** : CLP Power Hong Kong Limited represented by Kum Shing (K.F) Construction Company Limited
- Sites** : Government Land (GL) in D.D. 222, Pak Kong Road, Sai Kung, New Territories
- Site Area** : About 38m²
- Land Status** : GL
- Plan** : Approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No. S/SK-PK/11
- 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 sites (the Sites), which fall within an area zoned “CA” on the approved Pak Kong and Sha Kok Mei OZP No. S/SK-PK/11 (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 Sites comprise two portions located at the roadside of Pak Kong Road and on a vegetated slope off Pak Kong Road respectively. The proposed installation includes four poles (about 1m(L) x 1m(W) x 7.2m(H) x 1.8m(D) each) with four stays (about 1m(L) x 1m(W) x 1.2m(D) each) and three sections of underground cables (about 1m(W) x 1.2m(D), with a total length of 30m) (**Plan A-2**). The proposed excavation area is about 38m² with depths ranging from about 1.2m to 1.8m. The trenches for underground cables will be backfilled upon completion of the installation works. According to the applicant, the proposed installation is for providing electricity for Lot 1139 RP in D.D. 222 to the immediate northeast of the Sites in the same “CA” zone (**Plan A-2**), which is intended for development of a

Chinese medicine research centre.

1.3 The layout plans, section plans and alignment of cable of the proposed installation submitted by the applicant are at **Drawings A-1 to A-5**.

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

- (a) Application Form with attachments received on 7.12.2023 **(Appendix I)**
- (b) Further Information (FI) received on 20.12.2023 **(Appendix Ia)**
[accepted and exempted from publication and recounting requirements]

1.5 On 26.1.2024 and 5.4.2024, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application for two months each as requested by the applicant.

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 for Lot 1139 RP in D.D. 222, which is intended for development of a Chinese medicine research centre for carrying out Chinese herbal medicine cultivation and scientific research;
- (b) there is no feasible alternative sites for the proposed installation other than installing new wood poles and lay underground cables in the “CA” zone; and
- (c) the proposed installation will induce minimal impact on the existing landscape of the “CA” zone. No tree felling is required for the proposed installation. No visual impact would be incurred after the completion of the pole erection works. The proposal is considered to be the best approach with the least environmental impact.

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

As the Sites involve 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. 31B) are not applicable to the application.

4. Previous Application

There is no previous application at the Sites.

5. Similar Applications

- 5.1 There are three similar applications (No. A/SK-PK/286, 287 and 288) for proposed public utility installation (poles and/or underground cables) and associated excavation of land within the same “CA” zone on the OZP in the past five years. They were all rejected by the Committee mainly for reasons that the proposed installations with excavation of land were not in line with the planning intention of the “CA” zone and the applicants failed to demonstrate that the proposed installations were essential infrastructure projects with overriding public interest that warranted a departure from the planning intention of the “CA” zone.
- 5.2 Details of these applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

6. The Sites and Their 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 Sites comprise two portions located at the roadside of Pak Kong Road and on a vegetated slope off Pak Kong Road respectively.
- 6.2 The surrounding areas are predominantly rural in character with hillside mature woodland in the same “CA” zone. A natural stream course is located to the immediate west of the Sites. To the immediate northeast is the concerned lot (i.e. Lot 1139 RP in D.D. 222) for which the proposed installation intends to serve. The lot is currently mainly covered by dense vegetation and is not subject to any valid planning permission (**Plans A-3 and A-4b**).

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 As stated in the Explanatory Statement (ES) of the OZP, excavation of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment. In view of the conservation value of the area within this zone, permission from the Board is required for such activity.

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 submitted an application for Excavation Permit (EP) enclosing a survey plan for the purpose of LV cable laying, poles and stays erection on 15.12.2023. It was noted that the excavation works shown on the survey plan did not fully tally with the Sites. The applicant is required to clarify in this respect; and
- (c) his office posted a notice for the EP application at the concerned location on 20.12.2023 and no objection was received upon the expiry of the notice on 3.1.2024. Subject to approval of the subject planning application, his office might issue the EP accordingly.

Nature Conservation

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

in view that the Sites are covered with common plant species and the scale of the proposed works is minor, he has no comment on the application from nature conservation perspective.

Landscape

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

- (a) the Sites are situated in an area of upland and hillside landscape character predominated by woodland as observed from the aerial photo in 2022. The proposed utility installation is considered not incompatible with the surrounding environment due to its limited extent;
- (b) it is observed that the Sites are located at an engineered slope with existing trees and groundcover planting. The applicant should provide a layout plan indicating the location/ alignment of the proposed poles, underground cables as well as land excavation area with information of the existing trees/ vegetation, and clarify if they will be affected by the proposed works;
- (c) since no existing tree information are provided in the application, landscape impact arising from the proposed works to the existing landscape resources in the “CA” zone cannot be envisaged; and
- (d) other comments are included in the advisory clauses at **Appendix IV**.

Environment

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

- (a) no objection to the application in view of the small scale and nature of the proposed installation and associated excavation of land, which will unlikely cause major pollution; and
- (b) other comments are included in the advisory clauses at **Appendix IV**.

Drainage

8.1.5 Comments of the Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD):

no in-principle objection to the proposed public utility installation and associated excavation of land from a drainage maintenance viewpoint.

Geotechnical

8.1.6 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

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

Electricity Supply

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

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

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

- (a) Commissioner for Transport;
- (b) Chief Highway Engineer/New Territories East, Highways Department;
- (c) Chief Engineer/Construction, Water Supplies Department;
- (d) Director of Fire Services (D of FS);
- (e) District Officer/Sai Kung, Home Affairs Department (HAD); and
- (f) Chief Engineer (Works), HAD.

9. Public Comment Received During Statutory Publication Period

During the statutory publication period, one public comment was received from an individual objecting to the application mainly on the grounds that there is neither

indication on the purpose of the electricity supply nor any approved application for the structure/operation for which the proposed installation intends to serve, and CLP should only serve approved developments (**Appendix III**).

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” 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 Country Park from the adverse effects of development. There is a general presumption against development in the “CA” 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.
- 10.2 According to the applicant, the proposed installation is for provision of electricity for Lot 1139 RP in D.D. 222 to the immediate northeast of the Sites within the same “CA” zone, which is intended for development of a Chinese medicine research centre for carrying out Chinese herbal medicine cultivation and scientific research. The concerned lot is currently mainly covered by dense vegetation without observable sign of cultivation activity (**Plan A-4b**). The applicant has not provided information on the nature and operation mode of the Chinese medicine research centre, nor any information demonstrating that the proposed utility installation is required and necessary for the use thereat. As such, the applicant fails to demonstrate that the proposed installation with excavation of land is an essential infrastructure project with overriding public interest which warrants a departure from the planning intention of the “CA” zone.
- 10.3 The Sites are located at the roadside of Pak Kong Road and on a vegetated slope off Pak Kong Road in the “CA” zone (**Plans A-3 and A-4a**). According to the applicant, no tree felling is required for the proposed installation. However, CTP/UD&L, PlanD advises that the Sites are located at an engineered slope with existing trees and groundcover planting and the applicant should provide a layout plan indicating the location/alignment of the proposed poles, underground cables as well as land excavation area with information of the existing trees/vegetation. Since no existing tree information are provided in the application, the landscape impact arising from the proposed works to the existing landscape resources in the “CA” zone cannot be envisaged. In this regard, the applicant fails to demonstrate that the proposal would not generate adverse landscape impact on the Sites and their surrounding areas.
- 10.4 The Sites are in close proximity to a natural stream course to its west and the proposed public utility installation will involve excavation of an area of about 38m². According to the ES of the OZP, excavation of land within “CA” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding areas. CE/MS, DSD has no objection to the application from drainage maintenance viewpoint, while DEP also has no objection to the application in view of the small scale and nature of the proposed

installation and associated excavation of land, which will unlikely cause major pollution. DAFC has no comment on the application from nature conservation perspective as the Sites are covered by common plant species and scale of the proposed works is minor. Other concerned government departments including D of FS, DEMS, and H(GEO), CEDD have no objection to or no adverse comment on the application from fire safety, electricity supply safety and geotechnical aspects respectively.

- 10.5 Three similar applications (No. A/SK-PK/286, 287 and 288) were rejected by the Committee in the past five years for the reasons stated in paragraphs 5.1 above. The planning circumstances of the current application are similar to those of the rejected applications in that the applicant failed to demonstrate the proposed installation is an essential infrastructure project with overriding public interest. In view of the above, rejection of the current application is generally in line with the Committee's previous decisions.
- 10.6 Regarding the public comment objecting to the application as detailed in paragraph 9 above, the departmental comments in paragraph 8 and planning assessments in paragraph 10 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 comment in paragraph 9 above, the Planning Department does not support the application for the following reasons:
- (a) the proposed installation and associated excavation of land is not in line with the planning intention of the "Conservation Area" ("CA") 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. There is a general presumption against development within the "CA" zone. The applicant fails to demonstrate that the proposed installation is an essential infrastructure project with overriding public interest that warrants a departure from the planning intention of the "CA" zone; and
 - (b) the applicant fails to demonstrate that the proposed installation and associated excavation of land would not generate adverse landscape impact on the application sites and the surrounding natural environment.
- 11.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 21.6.2028, 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**.

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 7.12.2023
Appendix Ia	FI received on 20.12.2023
Appendix II	Similar Applications
Appendix III	Public Comment
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawings A-2 and A-3	Section Plans
Drawings A-4 and A-5	Existing Cable and Proposed Alignment of Cable
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2024**