

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

**APPLICATION NO. A/SK-CWBS/36**

- Applicant** : Mr. LAU Sai Kee
- Site** : Lot 140 in D.D. 230, Siu Hang Hau Village, Clear Water Bay Road, Sai Kung, New Territories
- Site Area** : About 6.55m<sup>2</sup>
- Land Status** : Old Schedule Agricultural Lot held under Block Government Lease
- Plan** : Approved Clear Water Bay Peninsula South Outline Zoning Plan (OZP) No. S/SK-CWBS/2
- Zoning** : “Conservation Area” (“CA”)
- Application** : Proposed Excavation and Filling of Land (Installation of Electricity Meter Kiosk for Permitted Agricultural Use)

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed excavation and filling of land at the application site (the Site) (**Plan A-1**) for installation of an electricity meter for permitted agricultural use within Lot 140 in D.D. 230 (about 1,406.2m<sup>2</sup>). According to the Notes of the OZP for “CA” zone, ‘Agricultural Use’ is always permitted. The proposed electricity meter kiosk may be regarded as ancillary facility to the permitted agricultural use, however, the associated excavation and filling of land for the installation of the electricity meter kiosk requires planning permission from the Town Planning Board (the Board).
- 1.2 The proposed excavation work area is approximately 6.55m<sup>2</sup> (3.05m (Length) x 2.15m (Width)) with a depth of approximately 0.7m for the installation of an electricity meter kiosk of 1.15m (Length) x 0.7m (Width) x 2.3m (Height) placed in a concrete base of 0.4m aboveground in height within the Site at the southern tip of Lot 140 in D.D. 230 to provide lighting and automatic water sprinkler associated with the permitted agricultural use within the said Lot. Location of the proposed electricity meter kiosk (i.e. the excavation area) and details of the proposed electricity meter kiosk are shown in **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 23.12.2020 and (Appendix I) supplementary information received on 30.12.2020
- (b) Further Information (FI) from the applicant received (Appendix Ia) on 4.1.2021 (*accepted and exempted from publication and recounting requirements*)
- (c) FI from the applicant received on 25.1.2021 (Appendix Ib) (*accepted and exempted from publication and recounting requirements*)

## 2. **Justification from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 10 of the application form and FI at **Appendices I** and **Ib**. They can be summarized as follows:

- (i) the installation of an electricity meter kiosk is necessary for agricultural purpose for provision of lighting and automatic water sprinkler system;
- (ii) the construction work for electricity meter kiosk will involve excavation and backfilling. There would be no effect on the plants; and
- (iii) using solar panel and power generator(s) have been taken into consideration as alternatives of electricity supply for the agricultural use. However, the land required for placing solar panels and stability of solar power would be the concerns, while using power generator(s) would cause high level of noise pollution to the nearby residence. Therefore, it is preferable to install an electricity meter kiosk.

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

The applicant is one of the “current land owners”. In respect of the other “current land owners”, the applicants have complied with the 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. 31) by obtaining consent from other “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

## 4. **Previous Application**

There is no previous application covering the Site.

## 5. **Similar Application**

There is no similar application within the same “CA” zone on the OZP.

## 6. **Background**

Lot 140 in D.D. 230 (including the Site) is the subject of two previous planning enforcement cases against Unauthorised Development (“UD”) involving filling and excavation of land (cases nos. E/SK-CWBS/1 and E/SK-CWBS/4) (**Plan A-2**). The UD’s had been discontinued and the concerned land had been reinstated in 2015/2016 and mid-2019 respectively.

## 7. **The Site and Its Surrounding Areas (Plans A-1 to A-3 and Site Photos on Plans A-4a to A-4c)**

### 7.1 The Site:

- (a) is generally flat land and covered by grass and natural vegetation ;
- (b) is located at the southern tip of Lot 140 in D.D. 230 and at the fringe of the “CA” zone; and
- (c) is accessible from Siu Hang Hau Road via a local track.

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

- (a) the majority part of Lot 140 in D.D. 230 is generally flat land under cultivation, with the remaining part vacant and partly covered by crops, grass and natural vegetation;
- (b) to the west and south of the Lot are areas covered with dense vegetation within “CA” zone;
- (c) to the east is a natural streamcourse along the boundary of the adjacent “Village Type Development” (“V”) zone for Siu Hang Hau Village and “Green Belt” zone; and
- (d) to the further northeast and east (about 46 metres) are clusters of village houses of Siu Hang Hau Village.

## 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 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.

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

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

### **Land Administration**

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

- (a) the Site falls entirely within private land, Lot No. 140 in D.D. 230 (“the Lot”);
- (b) the Lot is an old schedule agricultural lot held under Block Government Lease. Under the lease, the lessee must obtain the approval of Government before any buildings or structures of any description are erected or constructed on the land. It is currently land policy in certain cases/areas to issue a Short Term Waiver (STW) waiving government’s right of re-entry for a limited period during which time the lessee may construct a structure/building on the land for use other than agricultural use; and
- (c) if planning permission for the subject application is given, the applicant is required to submit a formal STW application to LandsD for consideration. LandsD would process such application in the capacity for a landlord and if the application is approved, it will be subject to such terms and conditions, including the payment of fees as considered appropriate. However, there is no guarantee that such application will be approved.

### **Environment**

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

he has no objection to the application. In view of the small scale and nature of the proposed development, the proposed development will unlikely result in any potential adverse environmental impacts.

### **Urban Design**

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

- (a) the site is located to the further south of Sheung Sze Wan and accessible via a footpath connecting to Siu Hang Hau Road. It is surrounded by agricultural land and vegetated slopes and village houses to the further north, east and southeast, while the main road i.e. Sheung Sze Wan Road locates to the further west; and

- (b) given the small scale of the proposed concrete meter kiosk, it is anticipated that it would not induce significant adverse visual impact to the surrounding.

### **Landscape**

#### 9.1.4 Comments of the CTP/UD&L, PlanD:

- (a) no objection to the captioned application from landscape planning perspective; and
- (b) with reference to the aerial photo of 2020 and site photos (**Plans A-4a to A-4c**), the Site is situated in an area of residential urban fringe landscape character dominated by dense woodland and village houses. No significant landscape resource is observed within the Site. The proposed utility installation of electricity meter is considered not incompatible with the landscape setting in proximity. Significant adverse landscape impact arising from the proposed development is not envisaged.

### **Nature Conservation**

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

the subject site and the area in its vicinity is vacant since 2012 according to record of aerial photos. He has no strong view on the application.

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

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

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

On 5.1.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 26.1.2021, five public comments from Kadoorie Farm & Botanic Garden Corporation, World Wide Fund For Nature Hong Kong, Hong Kong Bird Watching Society, Designing Hong Kong Limited and an individual, were received (**Appendix II**) objecting the application on the grounds that the proposed development is not in line with the planning intention of “CA” zone; the proposed development is considered as a suspected ‘destroy first, develop later’ case that serves the areas which have been subject to unauthorised development and would legitimise the misuse of the “CA” zone; no strong justification to demonstrate the proposed installation is an essential infrastructure project with overriding public interest; and setting an undesirable precedent.

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

- 11.1 The application is for proposed excavation and filling of land (about 0.7m in depth with an area of about 6.55m<sup>2</sup>) for installation of an electricity meter kiosk for permitted agricultural use at the Site. The Site falls within the “CA” zone, which is intended 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. Agricultural use is always permitted in the “CA” zone while excavation and filling of land require permission from the Board. As claimed by the applicant, the proposed installation of electricity meter kiosk is necessary to provide electricity for lighting and automatic water sprinkler system for agricultural purpose. The applicant has also considered other alternatives of electricity supply, including solar power and power generator(s), which are not preferable taking account of the issues of land required, stability and noise impact. The proposed excavation and filling of land is required for installation of the electricity meter kiosk and the applicant indicates that electricity supply is necessary to facilitate the permitted agricultural use at the subject lot. Sympathetic consideration may be given to the application.
- 11.2 The Site is accessible via a local track leading from Siu Hang Hau Road. It is generally flat, partly covered by grass and vegetation. It is located at the fringe of the “CA” zone within Lot 140 in D.D. 230 where agricultural use is always permitted. The Lot is also close to the “V” zone of Siu Hang Hau Village across the natural streamcourse, and majority of the Lot is at present under cultivation. The proposed excavation and filling of land for installation of the electricity meter kiosk is small in scale and not incompatible within the surrounding environment. DAFC has no strong view on the proposed installation. CTP/UD&L of PlanD has no objection to the application as no significant adverse landscape impact to the Site and surrounding is envisaged.
- 11.3 Relevant government departments have no objection to or no comment on the application on technical aspects.

- 11.4 Regarding the public comments objecting to the application, the planning assessments in paragraphs 11.1 to 11.3 above are relevant.

## 12. **Planning Department's Views**

- 12.1 Based on the assessments made in paragraph 11, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until **5.2.2025**, 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 advisory clauses are suggested for Members' consideration:

### *Advisory Clauses*

The recommended advisory clauses are attached at **Appendix III**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection are suggested for Members' reference:

the proposed excavation and filling of land for installation of electricity meter kiosk 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 provide strong planning justification to justify a departure from the planning intention of the "Conservation Area" zone.

## 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 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 period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

**Attachments**

<b>Appendix I</b>	Application form received on 23.12.2020
<b>Appendix Ia</b>	Further Information from the applicant received on 4.1.2021
<b>Appendix Ib</b>	Further Information from the applicant received on 25.1.2021
<b>Appendix II</b>	Public Comments
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Location Plan submitted by the applicant
<b>Drawing A-2</b>	Elevation and Sectional Plan submitted by the applicant
<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 to A-4c</b>	Site Photos

**PLANNING DEPARTMENT  
FEBRUARY 2021**