

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/570

- Applicant** : 古立平先生
- Site** : Lot 353 in D.D. 99, San Tin, Yuen Long, New Territories
- Site Area** : About 1,149.9 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
- Zoning** : “Green Belt” (“GB”)
- Application** : Proposed Public Utility Installation (Solar Energy System)

1. The Proposal

- 1.1 The applicants seeks planning permission to use the application Site (the Site) for proposed public utility installation (solar energy system) (**Plan A-1**). The Site falls within an area zoned “Green Belt” (“GB”) on the approved San Tin OZP No. S/YL-ST/8. According to the Notes of the OZP, the proposed solar energy system, which is regarded as ‘Public Utility Installation’, is a Column 2 use within the “GB” zone and requires planning permission from the Town Planning Board (the Board). The Site is currently vegetated and occupied by structures proposed under the application without valid planning permission.
- 1.2 The Site is the subject of two previous applications (Nos. A/YL-ST/147 and 211), both for vehicle parks (**Plan A-1**). The last Application No. A/YL-ST/211 for proposed temporary public car park for a period of 3 years was rejected by the Board on review on 28.2.2003.
- 1.3 According to the applicant, the proposed system involves 540 semi-transparent solar panels (each 2m long x 1m wide and 0.04m thick) installed on a metal stand (40m long x 29m wide x 2.5 to 3m high in scaffolding style supported by 100 vertical and 200 horizontal metal pillars of 3-5m long). A structure (5m long x 3m wide x 3m high) for storage of electric meters, transformers and distribution boards and 4 wooden columns of 9m high to hold two transformers are also

proposed in the Site for accommodating CLP Power Hong Kong Limited (CLP)'s apparatus. The stand with solar panels will cover about 97% of the Site. The proposed solar energy system is to facilitate the participation in CLP's 'Renewable Energy Feed-in Tariff (FiT) Scheme' and the generated electricity from the solar energy system will be sold to CLP on a commercial basis. According to the applicant, he has submitted an application for participation in the FiT Scheme but was advised by CLP to revise the proposed generating capacity for CLP's reassessment. The applicant has yet to obtain the Acknowledgement Letter from CLP on his FiT application. No parking or loading / unloading space is proposed within the Site.

1.4 The Site is accessible from Chau Tau West Road via a footpath and the layout plans and drainage plan submitted by the applicant are at **Drawings A-1 to A-3**. In support of the application, the applicant has submitted the following documents:

- (a) Application Form with correspondence between the applicant and CLP received on 23.3.2020 **(Appendix I)**
- (b) Further Information (FI) received on 28.4.2020 with a Visual Impact Assessment (VIA) and a drainage proposal **(Drawing A-3)** **(Appendix Ia)**
- (c) FI received on 15.6.2020 in response to departmental comments* **(Appendix Ib)**
- (d) FI received on 28.7.2020 with amended pages on the submitted VIA* **(Appendix Ic)**
- (e) FI received on 31.8.2020 clarifying the size of solar panel with an updated page of application form* **(Appendix Id)**

**exempted from publication requirement*

1.5 On 26.6.2020, the Committee agreed to defer consideration of the application pending endorsement of the assessment criteria for consideration of application for solar energy system. The set of assessment criteria for considering applications for solar photovoltaic (SPV) system made under Section 16 of the Town Planning Ordinance was endorsed by the Board on 3.7.2020 and promulgated on 21.7.2020 **(Appendix II)**. FI was received on 28.7.2020 and the application was 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 Application Form in **Appendix I** and the FIs in **Appendices Ia to Ic**. They can be summarized as follows:

- (a) The Site is currently vacant and not the subject of any planned development, therefore he would like to use the Site for the proposed solar energy system.
- (b) The system produces non-polluting electricity and reduces carbon emission, which tallies with the environmental protection policies of the United Nations. The stand of the system will not occupy too much land area and no site formation is needed. Therefore, the proposed solar energy system does not have any adverse environmental impact and can benefit the environment.
- (c) According to the submitted visual assessments (**Appendices Ib and Ic**), there are no residential or industrial structures nearby the Site. There are trees close to the Site along Chau Tau West Road and Chau Tau South Road which act as visual buffer to pedestrians and road users. The proposed metal stand for the solar panels is in scaffolding style with a column of 2.5m to 3m in height and are placed every 4m to 5m. The solar panels are semi-transparent and there would not be any structures under the solar panels other than the stand. Therefore, the proposed use will not cause any adverse visual impact.
- (d) In response to the concern on drainage issue that the proposed installation will affect the existing drainage facilities i.e. the river flowing through the Site, the applicant proposed to divert the stream along the boundary of the Site and install an automatic pumping system to channel water around the Site to the adjacent drainage channel.
- (e) No construction access will be established and the construction material would be transported to the Site from the lay-by on Chau Tau West Road through a local track and existing pathway. No traffic impact will be induced.
- (f) The Site is covered with grass and there is no wetland or marsh within the Site. The semi-transparent solar panels allow sunlight to reach the ground and the proposed use would not cause any ecological impact. Construction will be completed in a month with no piling works involved and hence no noise nuisance will be induced.

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

The applicant is not the “current land owner” of the Site but has 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. 31A) by obtaining consent of the “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

- 4.1 According to Town Planning Board Guidelines for Application for Development within “GB” Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10), the relevant assessment criteria are summarized as below:

- (a) There is a general presumption against development (other than redevelopment) in “GB” zone.
- (b) An application for new development in a “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds.
- (c) Applications for G/IC uses and public utility installations must demonstrate that the proposed development is essential and that no alternative sites are available. The plot ratio of the development site may exceed 0.4 so as to minimize the land to be allocated for G/IC uses.
- (d) The design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment.
- (e) The proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area.
- (f) The proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution.

4.2 According to Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (TPB PG-No. 12C), the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarized as follows:

- (a) The intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds.
- (b) Within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including public utility installation (electricity mast, lamp post, pipeline and telephone booth only)) are however exempted from the requirement of EcoIA.

5. Assessment Criteria for Considering Applications for Solar Photovoltaic System

The set of assessment criteria for considering applications for SPV system made under Section 16 of the Town Planning Ordinance was approved by the Board on 3.7.2020 and

promulgated on 21.7.2020 (the extract is at **Appendix II**). The relevant assessment criteria for “GB” zone are summarized as follows.

- (a) It is a prerequisite for the applicant to obtain the ‘Consent Letter’ or ‘Acknowledgement Letter’ from CLP/HKE and submit a copy of the document together with the application to demonstrate the technical feasibility of the scheme in terms of serviceability, electrical safety and output generated by the SPV system.
- (b) Unless with strong justifications, the SPV system, including the height of the proposed structures, should be in keeping with the surrounding area/developments and commensurate with the function(s) it performs.
- (c) For optimisation of use of land, favourable consideration may be given if viability of co-existence of the proposed SPV system and uses that are in line with the long-term planning intention of the land use zoning of the Site could be satisfactorily demonstrated.
- (d) It has to be demonstrated to the satisfaction of the relevant government departments that the SPV system will not have significant adverse impacts, including but not limited to those relating to the environment, drainage, sewerage, traffic, geotechnical safety, landscape and visual¹ and, where needed, appropriate measures are to be adopted to mitigate the impacts.
- (e) Unless with strong justifications, proposals involving extensive site formation, vegetation clearance/tree felling, excavation or filling of land/pond are generally not supported.
- (f) As there is a general presumption against development in the “GB” zone, planning application within the “GB” zone is normally not supported unless with strong justifications. It has to be demonstrated to the satisfaction of the relevant government departments that the SPV system would not adversely affect the landscape character/resources of the “GB” zone and jeopardise the integrity of the zone as a buffer.
- (g) All other statutory or non-statutory requirements of the relevant government departments must be met. Depending on the specific land use zoning of the Site, the relevant TPB guidelines should be observed, as appropriate.
- (h) Approval conditions to address the technical issues, if any, within a specified time and clauses to revoke the permission for non-compliance with approval conditions may be imposed as appropriate.

¹ The applicant has to demonstrate that the proposal would not affect the visual and landscape amenities/character of the area adversely by, for instance, causing a significant change of landscape resources/character, dwarfing the surrounding developments or catching the public’s visual attention due to the scale and prominence of the proposed installation. Where appropriate, measures should be taken to mitigate the visual/landscape impact, for example, by peripheral screen planting.

6. Background

- 6.1 The Site is not subject to any active enforcement case. Should there be sufficient evidence to prove that the use on the Site constitutes an unauthorized development (UD) under the Town Planning Ordinance, enforcement action will be taken.
- 6.2 The FiT scheme is an initiative introduced by the Government under the post-2018 Scheme of Control Agreements with the two power companies for promoting the development of distributed renewable energy (RE). It aims to encourage the private sector to consider investing in RE as the power generated could be sold to the power companies at a rate higher than the normal electricity tariff to help recover the costs of investment in the RE systems and generation.
- 6.3 Any non-governmental bodies or individuals, who as customers of the relevant power company plan to install distributed RE systems at their premises in the respective power company's supply area, are eligible for prescribed FiT rates from that power company as long as they have been connected to the latter's grid. To join the Scheme, an applicant may make submission direct to the relevant power company with the required documents including the preliminary layout diagram and other information of the proposed RE system. After meeting the requirements specified by the power company on technical assessment, system test and installation works, the power company will proceed to install a smart meter in the applicant's premises to facilitate connecting the proposed RE system to the power grid. The successful applicant would be offered the FiT rate throughout the project life of the RE system until end 2033. The applicant shall ensure that the design, installation, operation and maintenance of the RE system comply with the applicable laws, guidelines and safety and technical guidelines.

7. Previous Applications

- 7.1 The Site is the subject of two previous applications covering much larger sites. Applications No. A/YL-ST/147 and 211 for proposed temporary vehicle park for private cars, lorries and container trailers and proposed temporary public car park for periods of 3 years were both rejected by the Board on review on 25.5.2001 and 28.2.2003 respectively mainly on grounds that the vehicle parks were not in line with the planning intention of the "GB" zone, there was insufficient information to demonstrate that the proposed pond filling and/or site levelling would not have adverse drainage impacts on the surrounding areas; and the approval of the application would set an undesirable precedent for similar applications within the "GB" zone.
- 7.2 Details of the applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

8. Similar Application

There is no similar application for public utility installation (solar energy system) within the same “GB” zone.

9. The Site and Its Surrounding Areas (Plans A-1 to A-4)

9.1 The Site is:

- (a) currently vegetated and occupied by a structure and 4 wooden columns for transformers proposed under the current application. There’s a watercourse around the boundary of the Site;
- (b) accessible from the northwest via a footpath off Chau Tau West Road; and
- (c) located within the WBA of Deep Bay Area.

9.2 The surrounding areas are rural in character intermixed with vacant and unused land, plant nursery, fallow farmland, pond and vehicle park, and have the following characteristics:

- (a) to its north and northwest are Chau Tau West Road, vacant land and a plant nursery;
- (b) to its northeast across Chau Tau South Road are Chau Tau Tsuen Stormwater Pumping Station, a pond and fallow farmland, further northwest is Chau Tau Tsuen; and
- (c) to its south and southeast are unused land and a temporary public vehicle park approved under Application No. A/YL-ST/544. Further south is a nullah.

10. Planning Intention

The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

11. Comments from Relevant Government Departments

11.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

11.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises 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) Should planning approval be given to the planning application, the lot owner will need to apply to his office to permit the structures to be erected or regularize any irregularity on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.

Traffic

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

- (a) The Site is connected to the public road network via a section of a local access which is not managed by Transport Department. The land status of the local access should be clarified with LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) Noting that there would be no vehicular access proposed between Chau Tau West Road and the Site, he has no adverse comment from traffic engineering point of view.

11.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

It is noted that no vehicular access is proposed or to be granted under the application. As such, he has no comment from highway maintenance point of view.

11.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD2-2, RDO, HyD):

As the Site falls outside any administrative route protection boundary, gazetted railway scheme boundary, or existing railway protection boundary of any railway systems, he has no comment on the application from railway development point of view.

Environment

11.1.5 Comments of the Secretary for the Environment (SEN):

- (a) He strongly supports the development of RE systems, especially larger-scale systems such as the one proposed under the current application as they would be better able to meaningfully contribute to increasing the use of RE in Hong Kong.
- (b) Development of RE is an important part of Environment Bureau (ENB)'s efforts in combating climate change. Increasing the use of RE, a zero-carbon energy, can help decarbonise the electricity generation sector, which contributes to about two-thirds of the carbon emissions in Hong Kong. In particular, if Hong Kong is to achieve a carbon reduction that is compliant with Paris Agreement's well below 2°C target in 2050, it is estimated that about 80% of the electricity would need to come from zero-carbon energy sources hence promoting the development of RE has been an integral part of Hong Kong's decarbonisation strategy.
- (c) The policy is for the Government to take the lead in developing RE where technically and financially feasible and to create conditions that are conducive to community participation. For the private sector, ENB and the power companies have introduced the FiT Scheme, providing financial incentives which can encourage the private sector to invest in distributed RE. ENB has also introduced a series of measures to facilitate and support members of the public in developing RE. Examples include relaxing the restrictions in relation to installation of PV systems at the rooftop of village houses and introducing a new scheme called "Solar Harvest" to install small-scale RE systems for eligible schools and welfare non-Governmental organizations. Electrical and Mechanical Services Department (EMSD) has also revamped its 'HK RE Net' to provide useful information in respect of developing RE to the public.

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

- (a) Based on the information provided, the applicant proposes to construct a solar energy system with 540 photovoltaic panels in the Site of about 1,150 m² to generate renewable energy.
- (b) In view of the nature and scale of the proposed development, he has no objection to the application. The applicant is reminded to strictly comply with relevant pollution control ordinances, including Waste Disposal Ordinance and Water Pollution Control Ordinance and to implement appropriate pollution control measures to minimize any potential environmental impacts during construction of the project. Reference could be made to relevant publications /guidelines including Recommended Pollution Control Clauses for Construction Contracts and Professional Persons Environmental

Consultative Committee Practice Notes (ProPECC PN) 1/94,
“Construction Site Drainage”.

Nature Conservation

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

- (a) He does not support the application from the nature conservation point of view.
- (b) The Site is located within the WBA. According to the TPB PG-No. 12C, the planning intention of the WBA is to protect the ecological integrity of the fishponds and wetland within the WCA and prevent development that would have a negative off-site disturbance impact on the ecological value of fishponds.
- (c) According to his site visit in early April 2020, the Site was covered with vegetation including aquatic plants and part of the Site was waterlogged. However, during his site visit on 19.6.2020, it was found that there had been extensive vegetation clearance on the Site. A substantial area of the Site was excavated.
- (d) According to an aerial photo taken in October 2019 by LandsD, there was a watercourse passing through the center of the Site. Nevertheless, it was found in his recent visit that the aforesaid watercourse was gone while there was a new watercourse around the boundary of the Site which was not found in the said aerial photo. It appears that the original watercourse was diverted.
- (e) As such, it seems that the application involves a suspected case of “destroy first, development later” which should not be encouraged.

Landscape and Visual Aspects

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

Urban Design and Visual

- (a) The current application seeks planning permission for a proposed solar energy system involving the installation of about 540 solar panels (measuring 2m long x 1m wide x 0.04m thick each) on a structure (measuring 5m long x 3m wide x 3m high) supported by about 100 metal pillars vertically on the Site zoned “GB” on the OZP.
- (b) The Site of about 1,149m² is situated in a densely vegetated area predominantly rural in character and surrounded by cultivated agricultural land, village houses and temporary car parks.

- (c) It is noted from the FI that the applicant submitted a VIA to assess the visual impact of the proposed solar energy system from various viewpoints. The applicant also proposed to use translucent material for the solar panels to improve the overall visual quality. Judging from the submitted photomontages, the scale of the proposed solar energy system is considered quite extensive and would bring forth visual changes to the surrounding rural setting.

Landscape Planning

- (d) The Site, located to the south of Chau Tau South Road and further west of Lok Ma Chau Road, falls within an area zoned “GB” on the OZP, and WBA under TPB PG-No. 12C. The Site is the subject of two previous applications. The last Application No. A/YL-ST/211 for proposed temporary public car park was rejected by the Board on 28.2.2003.
- (e) With reference to the aerial photos taken in 2012, 2016 and 2018 and the site visit conducted on 15.4.2020, the Site is situated in an area of rural landscape character. The Site is fully covered by vegetation and is surrounded by woodland, pond and agricultural land. Based on the proposal, it is noted that 97% of the site area will be covered by 540 pieces of solar panels in 1m x 2m size erected on a stand of 3m high. A current temporary public car park approved under application No. A/YL-ST/544 is found to its further south and southeast. It is considered that the proposed development is not entirely compatible with the landscape setting in proximity.
- (f) As observed from the site visit and the above aerial photos, the landscape environment of the Site maintains with lush vegetation as a green buffer. The applicant reported that no construction access will be established and the construction materials will be delivered to the Site through the existing pathway between Lots 326 RP and 327 RP in D.D. 99. Furthermore, it is noted that the proposed solar panels are semi-transparent. Nevertheless, the construction of supporting metal frames will inevitably affect the existing vegetation. The condition of existing vegetation cannot be ascertained.
- (g) There is concern that approval of the application would set an undesirable precedent for other similar development in the immediate neighbourhood, and the cumulative effect of approving such similar applications would result in alteration of the landscape character of the “GB” zone and further degradation of the landscape quality by the surrounding area. He therefore has reservation on the application from the landscape planning perspective.

Fire Safety

11.1.9 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to the satisfaction of D of FS.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval. The applicant should also be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant should be reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

11.1.10 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) Before any new building works (including erection of temporary building, erection of supporting structures for solar energy system, etc.) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (c) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.

- (d) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.
- (e) Detailed comments under the BO will be provided at building plan submission stage.

Drainage

11.1.11 Comments of the CE/MN, DSD:

- (a) He has no objection in principle to the application from drainage operation and maintenance point of view.
- (b) The applicant shall submit a drainage submission to demonstrate how he will collect, convey and discharge rain water falling onto or flowing to his site. A clear drainage plan showing full details of the existing drains and the proposed drains with supporting design calculations and charts should be included. Approval of the drainage proposal must be sought prior to the implementation of drainage works on site.
- (c) After completion of the required drainage works, the applicant shall provide DSD for reference a set of record photographs showing the completed drainage works with corresponding photograph locations marked clearly on the approved drainage plan.
- (d) He has no comment on the stream diversion proposal by the applicant. In the future, should DSD consider it necessary to carry out maintenance works for the section of the river within the Site, the lot owner should be responsible for removal of the solar panels so required and at their own cost.
- (e) His advisory comments are at **Appendix V**.

District Officer's Comments

11.1.12 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

His office has no comment on the application and the local comments shall be submitted to the Board directly, if any.

11.2 The following Government departments have no comment on the application:

- (a) Commissioner of Police (C of P);
- (b) Director of Food and Environmental Hygiene Department (DFEH);
- (c) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);

- (d) Project Manager (West) (PM(W)), CEDD;
- (e) Director of Electrical and Mechanical Services (DEMS);
- (f) Director of Leisure and Cultural Services (DLCS); and
- (g) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

12. Public Comments Received During Statutory Publication Period

On 31.3.2020 and 12.5.2020, the application and its FI were published for public inspection. During the 3-week statutory publication periods, 12 public comments objecting to the application were received from a Yuen Long District Council (YLDC) member, village representatives of Pun Uk Tsuen (submitted twice), Kadoorie Farm and Botanic Garden Corporation (submitted twice), Hong Kong Bird Watching Society (submitted twice), World Wide Fund for Nature Hong Kong (submitted twice), San Tin Rural Committee, Designing Hong Kong and an individual. They raised concerns on whether the proposed use was a private or public initiative, that the height of the proposed structure was not in line with the normal standards, whether there were other uses under the solar panels, that there was clearance of vegetation at the Site between 2018 and 2019, the proposed use increased the risk of flooding in the surrounding area, was not in line with the planning intention of the “GB” zone and TPB PG-No. 12C, and set undesirable precedent for similar applications (**Appendix IV**).

13. Planning Considerations and Assessments

- 13.1 The Site with an area of 1149.9m² is proposed for public utility installation (solar energy system), involving 540 semi-transparent solar panels (each 2m x 1m x 0.04m thick), a temporary structure and 4 wooden columns (9m high) for transformers (**Drawings A-1 and A-2**). The solar panels will be accommodated on a stand² with a dimension of 40 m long x 29 m wide x 2.5 to 3 m high covering about 97% of the Site (**Drawing A-4**). The proposed system, which falls within an area zoned “GB”, is not in line with the planning intention of the “GB” zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. No strong planning justification has been given in the submission for a departure from the planning intention.
- 13.2 The surrounding areas are predominantly rural in character, comprising mainly vacant and unused land, vehicle park, plant nursery, stream and pond (**Plans A-2 and A-3**). The proposed system with 540 solar panels mounted on a 2.5 to 3 m high metal stand covering 97% of the Site and four 9m high columns is considered massive in scale and not compatible with the scale of development in the surrounding areas. According to TPB PG-No. 10, development in “GB” zone should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape or cause any adverse visual impact on the surrounding environment. Comparing the aerial photos taken in October 2019 (**Plan A-3**)

² the metal stand is in scaffolding style and is composed of about 100 vertical and 200 horizontal metal pillars (**Drawing A-4**)

with the site photos taken in May 2020 (**Plan A-4**), some vegetation on site has been cleared for erection of the storage structure as well as the wooden columns. According to DAFC, the Site was covered with vegetation including aquatic plants and partially waterlogged in early April, but vegetation on site was found to have been extensively cleared in mid-June. A substantial area of the Site was excavated. The application is not in line with TPB PG-No. 10 as it involves clearance of existing natural vegetation, affects the existing natural landscape and causes adverse visual impact on the surrounding environment. CTP/UD&L, PlanD considers the scale of the proposed solar energy system to be extensive and would bring forth visual changes to the surrounding rural setting. He also has reservation from landscape planning perspective as the construction of supporting metal frames will inevitably affect the existing vegetation, and is concerned that approval of the application would set an undesirable precedent and the cumulative effect would result in alteration of the landscape character of the “GB” zone and further degradation of the landscape quality by the surrounding area.

- 13.3 The Site falls within the WBA of the TPB PG-No. 12C with the intention to protect the ecological integrity of the fish ponds and wetland within the WCA and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds. DAFC does not support the application from nature conservation point of view noting that there had been extensive vegetation clearance on the site including aquatic plants and the original watercourse passing through the center of the Site had been diverted.
- 13.4 According to the applicant, he had submitted an application to CLP for participation in the FiT Scheme and CLP replied him that the generating capacity of the proposed system had to be revised and resubmitted for CLP’s reassessment. SEN supports the development of RE systems, and DEP and DEMS have no objection to the application. Nevertheless, the acceptability and technical feasibility of the proposal is yet to be ascertained. Other relevant departments consulted, including C for T, CE/MN of DSD and D of FS have no adverse comment on the application from traffic, drainage and fire safety perspectives.
- 13.5 The proposed use is not in line with the assessment criteria for considering applications for SPV system promulgated by the Board on 21.7.2020 in that the applicant has yet to obtain CLP’s Acknowledgement Letter to demonstrate the technical feasibility of the scheme in terms of serviceability, electrical safety and output generated by the SPV system, there are adverse comments from relevant departments on ecological, visual and landscape aspects, and the applicant has failed to demonstrate that the proposed use would not adversely affect the landscape character/resources of the “GB” zone and jeopardize the integrity of the zone as a buffer.
- 13.6 There is no similar application for the solar energy system within the same “GB” zone on the OZP. The approval of the application would set an undesirable precedent for similar applications to proliferate in the “GB” zone. The cumulative effect of approving such similar applications would result in a general degradation of the rural environment of the area.

13.7 There are 12 public comments objecting to the application as detailed in paragraph 12. The planning assessment and departmental comments above are of relevance.

14. Planning Department's Views

14.1 Based on the assessment made in paragraph 13 and having taken into account the public comments in paragraph 12, the Planning Department does not support the application for the following reasons:

- (a) the development is not in line with the planning intention of the “GB” zone, which is to define the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intention;
- (b) the development is not in line with the Town Planning Board Guidelines for ‘Application for Development within the Green Belt zone under Section 16 of the Town Planning Ordinance’ in that the design and layout of the proposed development is incompatible with the surrounding area, involves extensive clearance of existing natural vegetation, affects the existing natural landscape and causes adverse visual impact on the surrounding environment; and
- (c) the proposed use is not in line with the assessment criteria for considering applications for SPV system in that the applicant has yet to obtain CLP’s acknowledgement letter, there are adverse comments from relevant departments on ecological, visual and landscape aspects, and the applicant has failed to demonstrate that the proposed use would not adversely affect the landscape character/resources of the “GB” zone and jeopardize the integrity of the zone as a buffer.

14.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 4.9.2024, 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 conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the submission of drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 4.3.2021;
- (b) in relation to (a) above, the implementation of drainage proposal within **9** months from the date of planning approval to the satisfaction of the

Director of Drainage Services or of the Town Planning Board by 4.6.2021;

- (c) the submission of fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 4.3.2021; and
- (d) in relation to (c) above, the implementation of fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 4.6.2021; and
- (e) if any of the above planning condition (a), (b), (c) or (d) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

Advisory Clauses

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

15. Decision Sought

- 15.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 15.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 15.3 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.

16. Attachments

Appendix I	Application Form received on 23.3.2020
Appendix Ia	FI 1 received on 28.4.2020
Appendix Ib	FI 2 received on 15.6.2020
Appendix Ic	FI 3 received on 28.7.2020
Appendix Id	FI 4 received on 31.8.2020
Appendix II	Extract of Assessment criteria for considering applications for solar photovoltaic system made under Section 16 of the Town Planning Ordinance
Appendix III	Previous applications covering the Site
Appendix IV	Public comments received during the statutory publication period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Layout Plan showing the proposed structure and wooden columns

Drawing A-2	Layout Plan showing the proposed solar panels
Drawing A-3	Drainage Plan
Drawing A-4	Visual plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2020**