

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/405

- Applicant** : Miracle (HK) Group Limited
- Site** : Lots 2161 and 2163 (Part) in D.D. 102, Ngau Tam Mei, Yuen Long
- Site Area** : About 1,490 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12
- Zoning** : “Green Belt” (“GB”)
- Application** : Proposed Public Utility Installation (Solar Energy System)

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed public utility installation (solar energy system). The Site falls within an area zoned “Green Belt” (“GB”) on the approved Ngau Tam Mei OZP No. S/YL-NTM/12. 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 largely vegetated, partly paved and occupied by an open shed and a temporary structure.
- 1.2 According to the applicant, the proposed system involves a temporary structure (about 8m long x 4.75m wide x 3m high, with a GFA of 38 m²) for meter installation and 338 solar panels (each about 3m long x 2m wide x 0.03m thick) installed on movable metal stands (about 3m long x 2m wide x 2.2 to 2.4m high in scaffolding style) which also act as shelters for agricultural use (for vegetable/fruits) underneath, of which ‘Agricultural Use’ is an always permitted use within the “GB” zone. The stand with solar panels will cover about 50% of

the Site. The proposed solar energy system is to facilitate the participation in the 'Renewable Energy Feed-in Tariff (FiT) Scheme' by CLP. According to the applicant, an application to CLP for participation in the FiT Scheme has been submitted but is yet to obtain the Acknowledgement Letter from CLP. No parking or loading / unloading space is proposed.

1.3 The Site is accessible from Kwu Tung Road via local access road (**Plans A-1 and A-2**). The layout plan and the indicative solar panel installation proposal submitted by the applicant are at **Drawings A-1 to A-2**. In support of the application, the applicant has submitted the following documents:

- (a) Application Form with supplementary information received on 11.6.2020 and 15.6.2020 **(Appendix I)**
- (b) Further Information (FI) received on 24.7.2020 with responses to departmental comments and clarification of background information **(Appendix Ia)**
(exempted from publication)

1.4 In light of the special work arrangement for Government departments due to the novel coronavirus infection, the meeting originally scheduled for 7.8.2020 for consideration of the application has been rescheduled, and the Board has agreed to defer consideration of the application. The application is now 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 FI in **Appendix Ia**. They can be summarized as follows:

- (a) The applicant responds to the Government's new initiative of FiT Scheme to promote development of renewable energy and to help reduce carbon emission.
- (b) The proposed development utilizes land resources in that the Site, owned by the Applicant, is having abundant light source which is suitable for solar energy generation as assessed by professionals.
- (c) Comparing with other brownfield operations such as warehouses, vehicle repairing or recycling workshops, the proposed solar energy system would only have minimal or no impact on the surrounding environment.
- (d) The proposed installation of solar energy system would be beneficial to future developments of the area as it has been connected to the relevant power company's grid for electricity supply.
- (e) The proposed solar energy system which also serves as shelters for agricultural use (i.e. fruits/vegetable growing underneath the solar panels) is in line with the planning intention of the "GB" zone for agricultural activities. Only soil

preparation and clearance of existing overgrown vegetation will be involved for the proposed agricultural activities underneath the solar panels. The applicant will be cooperating with some existing farming organizations for the proposed agricultural use.

- (f) A separation distance of 2m between the proposed system and the existing tree saplings along the western boundary of the Site will be provided to minimize the impacts on the existing trees. Tree compensation is also proposed with 30-35 numbers of tree saplings planted at the Site to mitigate the landscape and visual impact.
- (g) Anti-reflective coating will be applied on the solar panels and the solar energy systems are only of 2.2m to 2.4m high. Bird strike impact is not anticipated.
- (h) For transportation of construction/maintenance materials to the Site, 5.5 tonnes goods vehicle will be used. Operation of the proposed solar energy system would be monitored via computer/smart devices that manual operation is not required. Maintenance of the proposed solar energy system is minimal which would only be conducted twice annually. No noise, water and soil pollution will be anticipated. The impact on the surrounding environment is insignificant.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 10 (TPB-PG No. 10) for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ is relevant to this application. 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.

5. Assessment Criteria for Considering Applications for Solar Photovoltaic System

The set of assessment criteria for considering applications for Solar Photovoltaic (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 (**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/ Hongkong Electric Company Limited (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.

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.

- (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.

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 Application

The Site is not the subject of any previous application.

8. Similar Application

There is no similar application within the same “GB” zone.

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

9.1 The Site is:

- (a) largely vegetated, partly paved and occupied by an open shed and a temporary structure for storage use; and
- (b) accessible from the northeast via local access road branching off Kwu Tung Road.

9.2 The surrounding areas are rural in character intermixed with vacant and unused land, open storage, storage yards and residential dwellings. Some open storage and storage yards are suspected unauthorized development (UDs) subject to enforcement action by the Planning Authority:

- (a) to its north and further north are vacant and unused land;
- (b) to its east and northeast are vacant land, storage yards, open storage of construction materials, some scattered residential dwellings, and a semi-natural watercourse across the local track;
- (c) to its south and southwest are unused land and scattered residential dwellings; and
- (d) to its west and northwest are unused land, residential dwellings, storage yards and open storage of vehicles and vehicle parts.

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) As there is no information about the vehicular access at the private lot(s) to the Site, it is presumed that the applicant should arrange by themselves if necessary, and should seek the relevant land owner(s) on the right of using the vehicular access.
- (c) The applicant is advised that no vehicles are allowed to queue back to or reverse onto/from the Site anytime during the planning approval period.

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

- (a) The proposed access arrangement to the Site from Kwu Tung Road should be commented by TD.
- (b) HyD is not/shall not be responsible for the maintenance of any access connecting the Site to Kwu Tung Road. Presumably, the

relevant department will provide their comments to the applicant, if any.

- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

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 Renewable Energy (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 shelters for agricultural use) with 338 no. of solar panels in the Site of about 1,490 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) It is noted from the applicant’s submissions that around 338 nos. of solar panels (3m x 2m x 0.03m) were proposed to be installed at the Site, and the design of the solar panels would not cause bird strike.
- (b) According to his site inspection, the Site is partly paved with some weeds and trees of common species. There were two semi-mature trees at the western boundary of the Site. While he has no adverse comment on the vegetation clearance, the two trees should be preserved as far as possible.
- (c) The semi-natural watercourse is located outside the Site. The applicant shall perform good site practice so as not to pollute the semi-natural watercourse.

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 Site of about 1,490m² falls within “GB” zone on the respective OZP and is situated in an area surrounded by dense vegetation and temporary structures of 1 to 2 storeys, which is predominantly rural in character.

- (b) The current application seeks planning permission for a proposed solar energy system involving the installation of about 338 solar panels with shelters for agricultural use (measuring 3m long x 2m width x 0.03m thick each) on a movable metal stand (measuring 3m long x 2m width x 2.2 to 2.5m high each) and a structure (measuring 8m long x 4.75m width x 3m high) for the solar meter installation on the Site. According to the Assessment Criteria for Considering Applications for SPV made under Section 16 of the Town Planning Ordinance promulgated by Town Planning Board in July 2020, the height of the proposed structures should be in keeping with the surrounding area/developments and the applicant has to demonstrate that such SPV system will not have significant adverse visual impacts which would catch the public's visual attention due to the scale and prominence of the proposed installation.
- (c) It is noted from the FI that the applicant has proposed planting 30-35 nos. of fruit seedlings within the Site to enhance the overall visual quality and minimize the visual impact to the surrounding environment. Nevertheless, considering that the scale of proposed solar energy system involving about 338 solar panels and a structure covering area of about 730m² and 38m² respectively is quite extensive, it would inevitably bring forth visual changes to the surrounding rural environment.

Landscape Planning

- (d) He has reservation on the application from landscape planning perspective.
- (e) The Site falls within an area zoned "GB". It is not the subject of any previous planning application and no planning application for similar use within the "GB" zone is found.
- (f) Referring to the aerial photos taken in 2019, the Site is situated in an area of rural landscape character comprising scattered tree groups, temporary structures, car parks and vacant land. The proposed use is considered not entirely compatible with the existing landscape setting in proximity.
- (g) With reference to the site visit conducted on 24.6.2020, the Site is vacant and partly fenced off. The eastern part of the Site is hard paved and the rest of the Site is covered with self-seeded groundcovers. Sapling of common countryside tree and fruit tree species, such as *Dimocarpus longan*, *Ficus hispida*, *Litsea glutinosa*, *Macaranga tanarius*, *Melia azedarach* and *Trema tomentosa* are recorded along the western boundary of the Site.

- (h) Having reviewed the submission, it is noted that the maximum height of the shelter structure is proposed to be lowered from 2.5m to 2.4m. Also, a minimum of 2m of separation distance is proposed from the existing tree saplings along the western boundary of the Site. Landscape planting of 30-35 nos. of fruit tree saplings are proposed within the Site to mitigate adverse visual impact arising from the proposed development.
- (i) Although significant adverse impact on landscape resources within and adjacent to the Site arising from the proposed development is not anticipated, in comparing the aerial photos taken on 2016 and 2017, it is apparent that trees and vegetation within the Site has been cleared and the Site has been paved since 2016 causing adverse impact on the landscape character of the area. There is concern that approval of this application would set an undesirable precedent of landscape character alteration, and would encourage more similar development within the “GB” zone. The cumulative impact of such approval would further degrade the landscape quality of surrounding environment.

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) There is no record of approval by the Building Authority (BA) for the structures existing at the Site and his department is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The following issues should be observed by the applicant:
 - (i) if the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BA, they are unauthorized building works (UBW) under the Building Ordinance (BO) and should not be designated for any approved use under the application;
 - (ii) for UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing works or UBW on the Site under the BO;
 - (iii) before any new building works (including containers and open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, the prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
 - (iv) 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) Regulation (B(P)R) respectively;
 - (v) if the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage;
 - (vi) detailed comments under the BO will be provided at building plan submission stage.

Drainage

11.1.11 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the application from the 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. DSD will inspect the completed drainage works jointly with the applicant with reference to the set of photographs.
- (d) His advisory comments are at **Appendix IV**.
- (e) Regarding the watercourse located to the east of the Site, he has visited the Site recently that the subject watercourse is far away from the Site. He has no comment on the potential impact on the subject watercourse from drainage operation and maintenance point of view.

Electricity Safety Aspects

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

The applicant shall approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within or in the vicinity of the application site. Based on the cable plans and the relevant drawings obtained, if there is underground cable and/or overhead line within or in the vicinity of the application site, the applicant shall carry out the following measures:

- (a) For Site within the preferred working corridor of high voltage overhead lines at transmission voltage level 132kV or above as stipulated in the Hong Kong Planning Standards and Guidelines (HKPSG) published by the Planning Department, prior consultation and arrangement with CLP Power is necessary.
- (b) Prior to establishing any structure within the application site, the applicant and/or his contractors shall liaise with the electricity supplier and, if necessary, ask CLP Power to divert the underground cable and/or overhead line away from the vicinity of the proposed structure.
- (c) The Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established

under the Regulation shall be observed by the applicant when carrying out works in the vicinity of the electricity supply lines.

District Officer's Comments

11.1.13 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 Leisure and Cultural Services (DLCS); and
- (f) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

12. Public Comments Received During Statutory Publication Period

The application was published for public inspection on 19.6.2020. During the 3-week statutory publication period which ended on 10.7.2020, 6 public comments objecting to the application were received from San Tin Rural Committee, Kadoorie Farm and Botanic Garden Corporation, Hong Kong Bird Watching Society, World Wide Fund for Nature Hong Kong, Designing Hong Kong and an individual. They raised concerns that the massive scale of the proposed development is not compatible with the surrounding and is detrimental to the natural environment which would affect people's livelihood; there was clearance of vegetation at the Site between 2016 and 2020; and it is not in line with the planning intention of the "GB" zone and would set undesirable precedent for similar applications (**Appendix III**).

13. Planning Considerations and Assessments

13.1 The Site with an area of 1,490 m² is proposed for public utility installation (solar energy system), involving 338 solar panels (each 3m x 2m x 0.03m) and a temporary structure for meter installation, covering about 50% of the Site (**Drawings A-1 and A-2**). Each solar panel will be accommodated on a movable stand with a dimension of 3m long x 2m wide x 2.2 to 2.4m high. 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 densely vegetated land, vacant and unused land, scattered residential dwellings, storage and open storage (**Plans A-2 and A-3**). The proposed system with 338 solar panels on a stand of 2.2m to 2.4m high and covering about 50% of the Site is rather massive in scale and is considered not compatible with the scale of development in the surrounding areas. According to TPB PG-No. 10, development in “GB” zone should not affect the existing natural landscape or cause any adverse visual impact on the surrounding environment. The application is not in line with the Guidelines as it affects the existing natural landscape and causes adverse visual impact on the surrounding environment. CTP/UD&L, PlanD considers that the proposed solar energy system to be extensive and would bring forth visual changes to the surrounding rural environment. He also has reservation from landscape planning perspective as the proposed development is not entirely compatible with the existing landscape setting in proximity and approval of the application would set an undesirable precedent for other similar use within the “GB” zone which would further degrade the landscape quality of surrounding environment. The proposed system, which is extensive in scale, is considered incompatible with the surrounding rural environment.
- 13.3 According to the applicant, he had submitted an application to CLP for participation in the FiT Scheme but has not yet obtained an Acknowledgement Letter from CLP. 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, AFCD, and D of FS have no adverse comment on the application from traffic, drainage, nature conservation and fire safety perspectives.
- 13.4 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 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 “GB” zone as a buffer. Although the applicant claims that the proposed solar energy system can also be used as sheds for agricultural use which is an always permitted use within “GB” zone, the proposed solar energy system per se is not in line with the planning intention, TPB PG-No. 10 and the assessment criteria for considering applications for SPV system.
- 13.5 There is no similar application for the solar energy system within the “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.

- 13.6 There are 6 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, 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 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 15.9.2024, 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 15.3.2021;
- (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 15.6.2021;

- (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 15.3.2021;
- (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 15.6.2021; 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 IV**.

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 11.6.2020 and 15.6.2020
Appendix Ia	FI received on 24.7.2020
Appendix II	Assessment Criteria For Considering Applications For Solar Photovoltaic System Made Under Section 16 Of The Town Planning Ordinance
Appendix III	Public comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Indicative Solar Panel Installation
Plan A-1	Location Plan
Plan A-2	Site Plan

Plan A-3
Plan A-4

Aerial Photo
Site Photos

PLANNING DEPARTMENT
SEPTEMBER 2020