

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KLH/614

Applicant : Mr. CHEUNG Wai Nang

Site : Lot 822 in D.D. 7, Wai Tau Village, Tai Po, New Territories

Site Area : About 600 m²

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11

Zoning : “Village Type Development” (“V”)

Application : Proposed Public Utility Installation (Solar Photovoltaic System)

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed installation of solar photovoltaic system at the application site (the Site) which falls within an area zoned “V”¹ (**Plan A-1**). According to the Notes of the OZP, ‘Public Utility Installation’ use is a Column 2 use in “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant.
- 1.2 According to the applicant, a 3m-high aluminium rack with a covered area of 529m² (about 88% of the Site) will be erected on the Site above which about 190 solar panels (1m wide X 2m long each) will be installed. A 2m-high fence wall will be erected along the proposed development, and two equipment boxes, one in 0.35m wide X 1.2m long X 1.6m high and another one mounted on poles in 3m wide X 6m long X 11.5m high, will be installed at northern portion of the Site. The applicant advises that the proposed solar photovoltaic system will be connected to the existing electrical power network of CLP Power Hong Kong Limited (CLP) under the ‘Renewable Energy Feed-in Tariff Scheme’ (FiT Scheme). Total capacity of the solar voltaic system is about 102kW and all electricity generated will be sold to CLP on commercial basis. No parking space and loading/unloading bay is proposed within the Site. A plan showing the layout of proposed solar photovoltaic system submitted by the applicant is shown in **Drawing A-1**.

¹ Although a very minor portion of the Site (about 1%) falls within an area zoned “AGR”, the Site can be considered as falling entirely within the “V” zone due to minor boundary adjustment.

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

- (a) Application form with attachments received on 23.8.2022 (Appendix I)
- (b) Further information (FI) received on 1.11.2022 and 3.11.2022 (Appendix Ia)
- (c) FI submission received on 10.11.2022 (Appendix Ib)
- (d) FI submission received on 18.11.2022 (Appendix Ic)

1.4 On 14.10.2022, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's request to defer making a decision on the application for one month to allow more time for the applicant to address departmental comments.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form and FI submissions at **Appendices I to Ic** and are summarized below:

- (a) the Site has been left idle for more than 20 years. As CLP has provided 'Network Reinforcement Condition Letter' to the applicant to take part in the 'Renewable Energy Feed-in Tariff Scheme', the Site can be put for proposed development right away should the current application be approved;
- (b) the proposed development could contribute to renewable energy generation and help achieving the zero-emission objectives. Solar energy as a free energy source could reduce the cost of power generation and provide affordable energy source; and
- (c) solar panels would be installed on a 3m high aluminium rack to avoid possible damage by pedestrian as the Site is abutting an existing village footpath. The section of existing village footpath within the Site would not be affected by the proposed development. The solar panels would use high-transmittance materials which could reduce reflection and to minimize potential glare impact.

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. Assessment Criteria

The set of Assessment Criteria for Considering Applications for Solar Photovoltaic System made under Section 16 of the Town Planning Ordinance (Assessment Criteria) was first promulgated on 21.7.2020. The latest set of Assessment Criteria which was promulgated on 7.10.2022 is at **Appendix II**.

5. Previous Application

There is no previous application covering the Site.

6. Similar Application

There is no similar application for the proposed use within the same “V” zone.

7. The Site and Its Surrounding Areas (Plans A-1, A-2a, and photos on Plans A-3 and A-4)

7.1 The Site is:

- (a) currently vacant and covered with vegetation;
- (b) only accessible via a footpath leading to Wai Tau Tsuen;
- (c) within upper indirect water gathering ground (WGG);
- (d) located at the northwestern fringe of Wai Tau Tsuen and falling entirely within its village ‘environ’ (‘VE’).

7.2 The surrounding areas are predominantly rural in character, comprising village houses, temporary structures, farmlands and tree clusters. The village cluster of Wai Tau Tsuen is in the adjoining east and south of the Site.

8. Planning Intention

The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

9. Comments from Relevant Government Departments

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

Land Administration

9.1.1 Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) the Site consists of a private lot which is held under the Block Government Lease demised for agricultural use. No structure shall be erected thereon without prior approval from LandsD;
- (b) a recent site inspection revealed that no structure was found on the Site;
- (c) there is no Small House application received, approved or under processing at the Site;
- (d) should the application be approved by the Board, the lot owner is required to submit an application for Short Term Waiver (STW) to LandsD if he wishes to erect any structures on the lot. However, there is no guarantee at this stage that the STW application would be approved. If the STW application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as imposed by LandsD where appropriate, including payment of waiver fee and administrative fee; and
- (e) there is no guarantee to the grant of a right of way to the Site or approval of the emergency vehicular access thereto. Furthermore, neither occupation nor works of any kind thereon is allowed without the prior approval from LandsD.

Environment

9.1.2 Comments of the Secretary for the Environment and Ecology (SEE):

- (a) the Government has set net-zero electricity generation as one of the major decarbonisation strategies in the Hong Kong's Climate Action Plan 2050 promulgated in October 2021. The policy is for the Government to take the lead in developing renewable energy (RE) at various buildings and facilities where technically and financially feasible, and to create conditions that are conducive to community participation. For the private sector, the Government and the power companies have introduced the FiT Scheme, providing financial incentives which can encourage the private sector to invest in distributed RE; and

- (b) due to objective factors including, inter alia, topographical constraints, the share of RE in our fuel mix for electricity generation in Hong Kong is modest and most RE installations developed/to be developed under the FiT Scheme are of relatively small scale. In this vein, he strongly supports the development of RE systems, including the current application involving the installation of 190 solar panels with capacity of about 102 kW for meeting the annual electricity demand of about 31 households, as they would be able to meaningfully contribute to increasing the use of RE in Hong Kong.

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

- (a) no objection to the application;
- (b) 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. Reference could be made to the relevant publications/guidelines including the follows (which are available at EPD's website):
 - Recommended Pollution Control Clauses for Construction Contracts; and
 - Professional Persons Environmental Consultative Committee Practice Notes No. 1/94 - Construction Site Drainage.

Landscape

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

- (a) no objection to the application from the landscape planning perspective;
- (b) the Site is situated in an area of settled valleys landscape character comprising village houses, farmlands and tree clusters. It is covered by self-seeded vegetation, and no sensitive landscape resources is observed. Significant adverse landscape impact arising from the proposed development is not anticipated; and
- (c) should the application be approved, it is considered not necessary to impose a landscape condition as there is no major public frontage along the Site and the effect of additional landscaping on enhancing the quality of public realm is not apparent.

Drainage

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

- (a) no in-principle objection to the application from public drainage viewpoint;
- (b) should the application be approved, an approval condition requiring the submission and implementation of drainage proposal for the Site should be imposed to ensure that it would not cause adverse drainage impact on the adjacent areas; and
- (c) the applicant should note his advisory comments at **Appendix IV**.

Water Supply

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

- (a) having reviewed the FI submission (**Appendix Ia**) provided by the applicant, he has no further comment on the application; and
- (b) should the application be approved, the applicant is required to implement mitigation measures proposed under the FI submission. Additional mitigation measures may be required when the actual situation renders the initial risk assessment inviable. Should pollution be detected in future due to the proposed development, immediate remedial action to clear the pollution must be taken.

Building Matters

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

- (a) no objection to the application; and
- (b) the applicant should note his advisory comments at **Appendix IV**.

Fire Safety

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

- (a) no in-principle objection to the application subject to the water supplies for firefighting and fire service installations (FSIs) being provided to his satisfaction; and
- (b) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.

9.2 The following government departments have no objection to/no comment on

the application:

- (a) Commissioner for Transport (C for T);
- (b) Chief Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (d) Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD);
- (e) Director of Electrical and Mechanical Services (DEMS); and
- (f) District Officer (Tai Po), Home Affairs Department (DO(TP), HAD).

10. Public Comments Received During Statutory Publication Period (Appendix III)

The application was published for public inspection. During the statutory public inspection period, seven public comments were received from villagers of Wai Tau Tsuen and individuals objecting to or raising concerns on the application mainly for reasons of the Site encroaching onto an existing village footpath; being not compatible with surrounding village houses and farmland; causing glare and drainage impacts as well as light pollution.

11. Planning Considerations and Assessments

- 11.1 This application is for a proposed solar photovoltaic system involving the erection of a 3m-high rack installed with 190 solar panels covering about 88% of the Site which is mostly zoned “V” (**Drawing A-1**). Notwithstanding that the proposed development is not entirely in line with the planning intention of the “V” zone which is primarily for development of Small Houses by indigenous villagers, DLO/TP advises that there is no Small House application received at the Site.
- 11.2 According to the applicant, all electricity generated by the proposed solar photovoltaic system will be sold to CLP via the FiT Scheme, and a ‘Network Reinforcement Condition Letter’ has been issued by CLP which demonstrates the preliminary technical feasibility of the proposed system. SEE strongly supports the application as it is in line with the Government’s policy to promote the use of RE in Hong Kong. Given that electricity generated from the proposed solar photovoltaic system is equivalent to about 33 domestic households’ annual energy consumption, SEE considers that the proposed system could meaningfully contribute to the use of RE in Hong Kong by way of the FiT Scheme jointly introduced by the Government and the two power companies until end of 2033. In this regard, approval of the application would not jeopardize the planning intention of the “V” zone in the long term.
- 11.3 The Site is currently vacant and covered with vegetation. The surrounding areas are predominantly rural in character comprising scattered tree groups and active farmland. Village houses of Wai Tau Tsuen are concentrated to the east and south of the Site. The proposed development mainly comprises a 3m-high aluminium rack with solar panels installed atop, and is considered not

incompatible with the surrounding village houses. CTP/UD&L of PlanD has no objection to the application from landscape planning perspective as significant adverse landscape impact arising from the proposed development is not anticipated.

- 11.4 The Site is located within the upper indirect WGG. According to the Assessment Criteria, for solar photovoltaic system falling within WGG, information should be provided to demonstrate that the system will not contaminate the water supply. The applicant has made submission to demonstrate that there is no material increase in pollution effect within the WGG resulting from the proposed development during construction and operation stages, and CE/C of WSD has no adverse comment on the application. Other government departments consulted, including DEP and DEMS, have no objection to or no adverse comment on the application. Relevant approval conditions are recommended in paragraph 12.2 below to address technical comments of CE/C of WSD, CE/MN of DSD and D of FS. In view of the above, the application is generally in line with the Assessment Criteria in that the applicant has obtained CLP's 'Network Reinforcement Condition Letter' to the preliminary technical feasibility of the proposed system; height of the proposed development is in keeping with the surrounding developments and commensurate with the function it performs; relevant government departments consulted have no adverse comments on the application from the various technical perspectives; and the long-term planning intention of the "V" zone would not be affected.
- 11.5 Regarding the public comments raising objection to or concerns on the application as detailed in paragraph 10 above, the applicant confirms that the section of existing village footpath within the Site would not be affected by the proposed development. In addition, solar panels with high-transmittance materials would be adopted to minimize potential glare impact. As for other concerns on land use compatibility and potential drainage impact arising from the proposed development, government departments' comments and the planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, 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 **25.11.2026**, 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 and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning

Board;

- (b) the implementation of mitigation measures identified in the accepted risk assessment on contamination of Water Gathering Grounds to the satisfaction of the Director of Water Supplies or of the Town Planning Board; and
- (c) the provision water supplies for fire-fighting and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board.

Advisory Clauses

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

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

- the proposed development is not in line with the planning intention of the "V" zone which is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. There is no strong justification in the submission for a departure from the planning intention.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s) to be attached to the permission, and the date when the validity of the permissions should expire.
- 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.

14. Attachments

Appendix I	Application form and attachments received on 23.8.2022
Appendix Ia	FI received on 1.11.2022 and 3.11.2022
Appendix Ib	FI received on 10.11.2022
Appendix Ic	FI received on 18.11.2022
Appendix II	Relevant extracts of '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	Proposed layout submitted by the applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

PLANNING DEPARTMENT
NOVEMBER 2022