

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KLH/639

Applicant : Mr. CHEUNG Wai Nang

Site : Lot 1005 in D.D. 7, Wai Tau Tsuen, Tai Po, New Territories

Site Area : About 346m²

Lease : Block Government Lease

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 public utility installation (solar photovoltaic system) at the application site (the Site) which falls within an area zoned “V” (**Plan A-1**). According to the Notes of the OZP, ‘Public Utility Installation’ use is a Column 2 use within the “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by two vacant temporary structures (**Plan A-4**).
- 1.2 The SPV system will be connected to the existing electrical power network of CLP Power Hong Kong Limited (CLP) under the ‘Renewable Energy (RE) Feed-in Tariff Scheme’ (FiT Scheme) with a generation capacity of 40kW, which will remain in effect until the end of 2033. According to the applicant, the proposed development involves an installation of 74 solar panels (2.278m (L) x 1.134m (W) x 0.035m (H) each) atop two existing single-storey (2.75m high) structures with a total floor area of about 242m² (**Drawings A-1 and A-2**). The two structures will be utilised for indoor farming¹ by employing advance cultivation techniques such as hydroponics and vertical farming. No parking space and loading/unloading bay is proposed within the Site. The layout plan and section plan submitted by the applicant are shown in **Drawings A-1 and A-2**.
- 1.3 A ‘Network Reinforcement Condition Letter’ has been issued by CLP which demonstrates the preliminary technical feasibility of the proposed system.

¹ According to the Notes of the OZP, ‘Agricultural Use’ is always permitted within “V” zone, and no planning permission from the Board is required.

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

- (a) Application Form with attachments received on (Appendix I)
16.1.2024
- (b) Further Information (FI) received on 19.2.2024* (Appendix Ia)
- (c) FI received on 28.2.2024* (Appendix Ib)

**accepted and exempted from publication and recounting requirements*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs at **Appendices I to Ib** as summarized below:

- (a) solar energy is a green and environmentally beneficial source of power, aligning with the city's objective of achieving 'net-zero' emission. The proposed solar photovoltaic system will be connected to the existing electricity network of CLP Power Hong Kong Limited (CLP) under the 'Renewable Energy Feed-in Tariff Scheme' (FiT Scheme). The total generation capacity of the solar photovoltaic system is about 40 kW and all electricity generated will be sold to CLP, which could meet the annual electricity demand of about 12 households;
- (b) the Site has been used for agricultural purposes for decades. To further optimize the land resources, solar photovoltaic system will be installed on top of the structures which have been recently rebuilt, whereas the spaces under the roof will be utilised for indoor farming; and
- (c) the applicant is committed to comply with the requirements of the Water Supplies Department (WSD) to ensure that there is no material increase in pollution effect within the water gathering grounds (WGG) resulting from the proposed development during construction and operation stage.

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. Background

- 5.1 The Site is not subject to any active planning enforcement action.
- 5.2 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 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.
- 5.3 Any non-governmental bodies or individuals, 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 with installing 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.

6. Previous Application

There is no previous application at the Site.

7. Similar Application

- 7.1 There is a similar application (No. A/NE-KLH/614) for the same use within the same "V" zone to the north of the Site (**Plans A-1 and A-2**), which was approved with conditions by the Rural and New Town Committee (the Committee) in 2022 mainly on consideration of not frustrating the planning intention of the "V" zone; being in line with the Government's policy to promote the use of renewable energy (RE) in Hong Kong; not incompatible with the surrounding village houses; and not causing significant adverse impacts on the surrounding areas.
- 7.2 Details of the similar application are summarized at **Appendix III** and its location is shown on **Plan A-1**.

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

8.1 The Site is:

- (a) occupied by two vacant temporary structures;
- (b) only accessible via a footpath leading to Wai Tau Tsuen;
- (c) within the upper indirect WGG; and
- (d) located in the eastern part of Wai Tau Tsuen and falling entirely within its village 'environ' ('VE').

8.2 The surrounding areas are predominantly rural in character, comprising temporary structures and surrounded by village houses in Wai Tau Tsuen.

9. 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.

10. Comments from Relevant Government Departments

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

Policy Aspect

10.1.1 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. To achieve the long-term carbon neutrality target before 2050, it needs to increase zero-carbon electricity supply through renewable energy (RE) development as far as possible. The policy is for the Government to take the lead in developing 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. SEE has also introduced a series of measures to facilitate and support members of the public in developing RE; and
- (b) he strongly supports the development of RE systems, including the

current application involving the installation of 74 solar panels, with capacity of about 40 kW, which is sufficient to fulfill the annual electricity demand of about 12 households. The application, if approved, could put the existing idle structure to good use while achieving the carbon neutrality target.

Land Administration

10.1.2 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. No structure is allowed to be erected without the prior approval of the Government;
- (b) there is no guarantee to the grant of a right of way to the Site or approval of the EVA thereto;
- (c) there are surveyed vacant squatter structures at the Site which are tolerated to remain on a temporary basis. The dimensions of the proposed structures with 74 units of solar panels in the applicant's proposal are larger than that are contained in the squatter control survey record;
- (d) should the Board approve the application, the lot owner is required to submit application for Short Term Waiver (STW) to LandsD if he wishes to erect proposed structures with solar panels atop on the Site. LandsD will consider the STW applications in accordance with the established procedures and guidelines. 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 may be imposed by LandsD including the payment of rental, waiver fee and administrative fee as considered appropriate; and
- (e) the applicant will likely make use of the adjoining unleased / unallocated Government land as vehicles access to and from the Site. The maintenance and management responsibility of the said Government land and any other Government land leading to the Site should be sorted out with the relevant Government departments, prior to the use of access purpose. Moreover, access to the Site may also fall on adjoining private lots all in D.D. 7. The applicant should sort out the relevant issues with the lots owners concerned.

Environment

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

- (a) has no objection to the application from the environmental

planning perspective;

- (b) one environmental complaint in relation to waste was received in 2023; and
- (c) his advisory comments are at **Appendix IV**.

Water Supply

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

- (a) having reviewed the FI submission (**Appendix Ib**), he has no further comment on the application; and
- (b) should the application be approved, the applicant should be required to follow and implement the mitigation measures proposed in the submission under the condition(s) of approval. 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 use, immediate remedial action to clear the pollution must be taken by the grantee.

Drainage

10.1.5 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) his advisory comments are at **Appendix IV**.

Fire Safety

10.1.6 Comment of the Director of Fire Services (D of FS):

- (a) no specific comment on the application;
- (b) detailed fire services requirements will be formulated upon receipt of formal submission of general building plan; and
- (c) his advisory comments are at **Appendix IV**.

Building Matters

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

- (a) no objection to the application;
- (b) there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site; and
- (c) his advisory comments are at **Appendix IV**.

Electricity and Town Gas Safety

10.1.8 Comment of the Director of Electrical and Mechanical Services (DEMS):

- (a) no particular comment from electricity supply safety aspect; and
- (b) his advisory comments are at **Appendix IV**.

10.2 The following government departments have no comment on/no objection to the application:

- (a) Commissioner for Transport (C for T);
- (b) Chief of Highway Engineer/New Territories East, Highways Departments (CHE/NTE, HyD);
- (c) Chief Town Planner/Urban Design and Landscape, Planning Department (UD&L, PlanD);
- (d) Director of Agriculture, Fisheries and Conservation (DAFC);
- (e) Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD);
- (f) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD); and
- (g) District Officer (Tai Po), Home Affairs Department (DO(TP), HAD).

11. Public Comment Received During Statutory Publication Period

On 23.1.2024, the application was published for public inspection. During the statutory public inspection period, one public comment (**Appendix V**) was received from an individual objecting to the application mainly for reason of causing potential glare and reflection issue to nearby residents.

12. Planning Considerations and Assessment

12.1 This application is for a proposed solar photovoltaic system involving the installation of 74 solar panels covering about 70% of the Site which will be placed atop the two existing structures at the Site zoned “V”. 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 of LandsD advises that there is no Small House application received at the Site.

- 12.2 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 12 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.
- 12.3 The Site is currently covered by two vacant temporary structures. According to DLO/TP of LandsD, the surveyed vacant squatter structures on the Site are tolerated to remain on a temporary basis. The surrounding areas are predominantly rural in character comprising temporary structures and surrounded by village houses in Wai Tau Tsuen. The proposed development mainly comprises installation of 74 solar panels placed atop existing structures with indoor farming, and is considered not incompatible with the surrounding environment. CTP/UD&L of PlanD has no adverse comment on the application from landscape planning perspective.
- 12.4 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 stage, and CE/C of WSD has no adverse comment on the application. Other government departments consulted, including DEP, CE/MN of DSD, D of FS and DEMS, have no objection to or no adverse comment on the application. Relevant approval conditions are recommended in paragraph 13.2 below to address technical comments of CE/C of WSD and CE/MN of DSD. 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.
- 12.5 There is a similar application No. A/NE-KLH/614 for the same use within the same "V" zone to the north of the Site, which was approved by the Committee in 2022. Details of the approved application is set out at paragraph 7 above. The planning considerations of the said application are largely applicable to the current one.

- 12.6 Regarding the public comment raising objection to the application as detailed in paragraph 11 above, government departments' comments and the planning assessment above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 above and having taken into account the public comment mentioned in paragraph 11 above, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until **15.3.2028**, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The 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; and
- (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.

Advisory Clauses

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

- 13.3 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.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 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.

- 14.3 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.

15. Attachments

Appendix I	Application Form with attachments received on 16.1.2024
Appendix Ia	FI received on 19.2.2024
Appendix Ib	FI received on 28.2.2024
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	Similar Application
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Layout plan
Drawing A-2	Section plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
MARCH 2024**