

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LK/161

<u>Applicant</u>	: Global Express Enterprise Limited
<u>Site</u>	: Lot 2048 S.B (Part) in D.D. 39, Yim Tso Ha Village, Sha Tau Kok, New Territories
<u>Site Area</u>	: About 230m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Luk Keng and Wo Hang Outline Zoning Plan (OZP) No. S/NE-LK/11
<u>Zoning</u>	: “Recreation” (“REC”)
<u>Application</u>	: Temporary Public Utility Installation (Solar Photovoltaic System) for a Period of Five Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a temporary public utility installation (solar photovoltaic (SPV) system) for a period of five years at the application site (the Site) which falls within an area zoned “REC” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Public Utility Installation’ is a Column 2 use in “REC” zone requiring planning permission from the Town Planning Board (the Board). The Site is paved, fenced-off and installed with a SPV system without a valid planning permission.
- 1.2 According to the applicant, the SPV system comprises a total of 80 solar panels mounted on metal supporting frames (about 2m (L) x 1m (W) x 1.5 (H) each) and a meter installation (about 0.5m (L) x 0.25 (W) x 0.7 (H)). The SPV system is 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 about 32kW, which will remain in effect until the end of 2033. The Site is accessible from Sha Tau Kok Road – Shek Chung Au via a local track (**Plan A-2**). No parking space or loading/unloading bay is provided within the Site. The layout plans submitted by the applicant are shown in **Drawings A-1 to A-2**.
- 1.3 A ‘Completion Letter RE System’ has been issued by CLP in January 2021 which advised the applicant that the RE system would be connected to CLP grid since 2021.
- 1.4 The Site is the subject of three previous applications (No. A/NE-LK/79, 102 and 132). The last application (No. A/NE-LK/132) for the same use submitted by the same applicant

was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 6.11.2020. The planning permission was subsequently revoked on 6.12.2023 due to non-compliance with the approval condition relating to the submission of a drainage proposal (see paragraph 6 below).

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

- (a) Application Form with attachments received on 10.1.2024 (Appendix I)
- (b) Further Information (FI) received on 24.7.2024* (Appendix Ia)

** accepted and exempted from the publication and the recounting requirements*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendices I and Ia**, as summarized below:

- (a) the applied SPV system is in line with the government policy of promoting energy efficiency and use of renewable energy;
- (b) a consent letter from CLP has been obtained informing the applicant that the RE system would be connected to CLP grid since 2021;
- (c) the proposed SPV system with a maximum of 80 solar panels is determined based on the operating capacity at the Site, while about 75 solar panels are currently provided. If the applicant decides to increase the number of solar panel to not more than 80 in the future, he would liaise with Lands Department (LandsD) regarding the existing Short Term Waiver at the Site;
- (d) the Site is not located within the water gathering grounds and the scale of the applied use is compatible with the surrounding area. The solar panels are coated with anti-reflective material. No adverse landscape, environmental, drainage and traffic impacts arising from the applied use are anticipated; and
- (e) the previously approved application (No. A/NE-LK/132) was revoked due to the land owner's advanced age and being unfamiliar with relevant procedures. While the approval condition in relation to drainage proposal was not complied with, the applicant had complied with the approval conditions in relation to submission and implementation of a fire service installations (FSIs) proposal. In this regard, a drainage proposal has been submitted in support of the current application. Should the applicant be approved, the applicant is committed to comply with relevant approval conditions.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is the sole "current land owner" of the Site. Detailed information would be deposited at the meeting for Members' inspection.

4. Assessment Criteria

The set of Assessment Criteria for Considering Applications for SPV 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 subject to planning enforcement action against an unauthorized development (UD) involving solar panels installation and storage use under case No. E/NE-LK/148 (**Plan A-2**). Enforcement Notice was issued on 16.5.2024 requiring discontinuation of the UD by 16.7.2024. Site inspection on 17.7.2024 revealed that the UD still continued upon expiry of the Notice, which was not complied with. Prosecution action would be considered by the Planning Authority.
- 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 planning 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 if they have been connected to the latter's grid. An applicant for the Scheme 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 connection the proposed RE system to the power grid. 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 Applications

- 6.1 The Site is the subject of three previous applications No. A/NE-LK/76, 102 and 132.
- 6.2 Application No. A/NE-LK/132 for proposed temporary public utility installation (SPV system) for a period of five years was submitted by the same applicant of the current application, and was approved by the Committee on 6.11.2020 mainly on the considerations that the application was supported by the then Secretary of Environment (SEN); in line with the then Assessment Criteria for considering applications for SPV system; and no major adverse departmental comment. While the applicant complied with approval conditions on the submission and implementation of FSIs proposals, the planning permission was revoked on 6.12.2023 due to non-compliance with the approval condition relating to the submission of a drainage proposal.

- 6.3 Applications No. A/NE-LK/76 and 102 for proposed Small House development were rejected by the Committee in 2012 and 2015. Their planning considerations are not relevant to the current application which involves a different use.
- 6.4 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

7. Similar Application

There is no similar application within the same “REC” zone in the vicinity of the Site in Luk Keng and Wo Hang areas in the past five years.

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

- 8.1 The Site is:
- (a) paved, fenced-off and installed with a SPV system; and
 - (b) accessible via a local track leading to Sha Tau Kok Raod – Shek Chung Au.
- 8.2 The surrounding areas are of rural character comprising unused land, fallow agricultural land, vegetated areas, tree clusters, and domestic structures (**Plan A-2**). To the immediate east of the Site is the “Village Type Development” (“V”) zone of Yim Tso Ha.

9. Planning Intention

The planning intention of the “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government bureau/ department as set out in paragraphs 10.2 and 10.3 respectively below, other departments consulted have no objection to or no adverse comments on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided at **Appendices IV** and **V** respectively.
- 10.2 The following government bureau supports the application.

Policy Aspect

- 10.2.1 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 RE development as far as possible;

- (b) 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. The Environment and Ecology Bureau (EEB) has also introduced a series of measures to facilitate and support members of the public in developing RE; and
- (c) he supports the development of RE systems, including the applied system under the application within “REC” zone in Sha Tau Kok, involving the installation of 80 solar panels, with a capacity of approximately 32kW, which is sufficient to fulfill the annual electricity demand of about 10 households. The application, if approved, could make good use of the land for solar energy generation while achieving the carbon neutrality target.

10.3 The following government department has the following comments on the application:

Landscape

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

- (a) from landscape planning perspective, there is no anticipated adverse impact on landscape resources;
- (b) based on site photos taken on 28.6.2024, the Site is fenced off, hard paved and covered by a SPV system with no sensitive landscape resources. Significant adverse impact on the existing landscape resources within the Site arising from the applied use is not anticipated; and
- (c) with reference to the aerial photo of 2023, the Site is located in an area of settled valleys landscape character comprising village houses, farmlands, temporary structures, tree clusters, and woodlands within the “Site of Special Scientific Interest” and “Conservation Area” to the further east. There is a concern that approval of the application may further alter the landscape character of the “REC” zone.

11. Public Comments Received During Statutory Publication Period (Appendix VI)

On 21.6.2024, the application was published for public inspection. During the statutory public inspection period, three comments were received. Two comments from the Chairman of Sheung Shui District Rural Committee and the Chairman of Lung Shan Area Committee indicate no comments on the application. The remaining public comment submitted by an individual mainly remarks that approval conditions of the previous application were not fulfilled.

12. Planning Considerations and Assessments

- 12.1 The application is for a temporary public utility installation (SPV system) for a period of five years at the Site which falls within an area zoned “REC” on the OZP (**Plan A-1**). The applied temporary use is not entirely in line with the planning intention of the “REC” zone, which is primarily for recreational developments for the use of the general public. Taking into account the planning assessments below, it is considered that approval of the application on a temporary basis for a period of five years would not jeopardize the long-term planning intention of the “REC” zone.
- 12.2 According to the applicant, the SPV System has been connected to the existing electrical power network of CLP under the FiT Scheme with a generation capacity of 32kW. A letter has been issued by CLP informing the applicant that the RE system would be connected to the CLP grid since 2021. SEE supports the RE system under the application. Given the electricity generated from the SPV system is equivalent to about 10 domestic households’ annual energy consumption, SEE considers that the proposed system could make good use of land for solar energy generation while achieving the carbon neutrality target.
- 12.3 The Site is paved, fenced-off and installed with a SPV system. CTP/UD&L of PlanD considers that significant adverse impact on the existing landscape resources within the Site arising from the applied use is not anticipated, though she raises concern that approval of the application may further alter the landscape character of the “REC” zone. Despite the Site is in proximity to the “V” zone of Yim Tso Ha to the east, the applied use is not entirely incompatible with the surrounding areas in view of its small scale. Other departments, including Director of Electrical and Mechanical Services and Director of Environmental Protection, have no adverse comment on/ no objection to the application.
- 12.4 The applied use is generally in line with the Assessment Criteria (**Appendix II**) for considering applications for SPV system in that the applicant has obtained CLP’s approval to demonstrate the technical feasibility of the SPV system; the height of the applied use is in keeping with the surrounding areas and commensurates with the function the system performs; and relevant departments consulted generally have no adverse comments on the application from various technical perspectives. Taking into account the policy support from SEE, sympathetic consideration may be given to the current application.
- 12.5 The Site is the subject of a previously approved application (No. A/NE-LK/132) submitted by the same applicant for the same use. The planning permission was revoked on 6.12.2023 due to non-compliance with the approval condition relating to the submission of a drainage proposal. Compared with the previous application, all development parameters including the site layout under the current application remain unchanged. In the current submission, the applicant has submitted a drainage proposal in support of the application, and Chief Engineer/Mainland North, Drainage Services Department has no objection to the application from public drainage viewpoint.
- 12.6 Regarding the public comments on the application as detailed in paragraph 11 above, government departments’ comments and planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments 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 on a temporary basis for a period of five years until 2.8.2029. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission of a 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 2.2.2025;
- (b) in relation to (a) above, the provision of drainage facilities 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 2.5.2025;
- (c) in relation to (b) above, the implemented drainage facilities at the Site shall be maintained at all times during the planning approval period;
- (d) the submission of a 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 2.2.2025;
- (e) in relation to (d) above, the implementation of the 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 2.5.2025;
- (f) if the above planning condition (c) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (g) if any of the above planning condition (a), (b), (d) or (e) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

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

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:
- the applied use is not in line with the planning intention of the "REC" zone, which is primarily for recreation development for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

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), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 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 Attachment received on 13.6.2024
Appendix Ia	FI received on 24.7.2024
Appendix II	Assessment Criteria For Considering Applications For Solar Photovoltaic System Made Under Section 16 of The Town Planning Ordinance
Appendix III	Previous Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawings A-1 to A-2	Layout Plans
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4	Site Photos

**PLANNING DEPARTMENT
AUGUST 2024**