

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/499

- Applicant** : Mr. Mok Yan Fuk represented by Hop Fung Electric Engineering Co.
- Site** : Lot 2921 RP in D.D. 129, Sha Kong Wai, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 475m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/11
- Zoning** : “Village Type Development” (“V”)
- Application** : Public Utility Installation (Solar Photovoltaic System), and Filling and Excavation of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for public utility installation (solar photovoltaic system), and filling and excavation of land at the application site (the Site) (**Plan A-1**) zoned “V” on the OZP. According to the Notes for the “V” zone, ‘Public Utility Installation’, which is a Column 2 use, as well as filling and excavation of land require planning permission from the Town Planning Board (the Board). The Site is currently hard-paved and erected with a New Territories Exempted House (NTEH), while the majority of the remaining area is mounted with solar panels without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site is accessible from Lau Fau Shan Road via a local track (**Drawing A-4**). As shown on the layout plans and sections at **Drawings A-1 to A-3**, the solar photovoltaic system involves a total of 81 solar panels (each of about 1.995m long × 0.995m wide × 0.04m thick) mounted on two sets of metal frames of about 1.09m to 1.33m in height affixed on the ground at the northwestern and southeastern portions of the Site¹. The two groups of solar panels cover areas of about 78m² and 84m² respectively (or a total of about 34.1% of the Site). The system also involves other ancillary components² installed on the western side of the NTEH (i.e. House No.

¹ The solar panels mounted on the rooftop of the NTEH at the Site (Photo 1 of **Plan A-4a**) are regarded as ancillary use for supplementing power supply to the building. Hence, those solar panels do not form part of the application.

² As indicated in the submission, the ancillary components include direct current (DC) array combiner box, alternating current(AC)/DC converter, transformer, meter box and fused switch, all of which are to facilitate the transmission of electricity generated by the solar panels to the electrical power network of CLP Power.

10B) (**Drawing A-1**). The solar photovoltaic system is connected to the existing electrical power network of CLP Power Hong Kong Limited (CLP Power) under the 'Renewable Energy Feed-in Tariff Scheme' (FiT Scheme), and the total generation capacity of the system is 40kW. While some of the electricity generated would be for self-use by House No. 10B, the remaining will be sold to CLP Power on commercial basis. The applicant has obtained a letter from CLP Power which confirmed the technical feasibility of the proposal.

1.3 Moreover, the applicant would like to regularise the land filling and excavation works on the Site. As shown on the land filling plan at **Drawing A-5**, the applied land filling works covers an area of about 99m² (or 20.8% of the Site) which has been filled with asphalt of about 0.3m in depth. Also, as shown on the land excavation plan at **Drawing A-6**, the applied excavation works covers a total area of about 1.98m² (or 0.4% of the Site) which has been excavated for about 0.7m in depth. The land filling and excavation works are to facilitate the installation of concrete footings of the metal frame for the solar photovoltaic system at the southeastern portion of the Site.

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

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|-----|--|------------------------|
| (a) | Application Form with attachments received on 30.10.2023 | (Appendix I) |
| (b) | Supplementary Information (SI) received on 9.11.2023 | (Appendix Ia) |
| (c) | SI received on 15.11.2023 | (Appendix Ib) |
| (d) | Further Information (FI) received on 1.12.2023* | (Appendix Ic) |
| (e) | FI received on 7.12.2023* | (Appendix Id) |
| (f) | FI received on 13.12.2023* | (Appendix Ie) |

**accepted and exempted from publication requirements*

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I**. They can be summarised as follows:

- (a) in light of global warming which threatens the ecological environment, the applicant wishes to utilise long-abandoned farmland to generate clean energy, thereby reducing the carbon emission arising from the use of fossil fuels for electricity generation by power companies, and expediting the pace for carbon neutrality;
- (b) the applied development echoes with the promotion of renewable energies by the Government and power companies, and would help Hong Kong to keep pace with global trend; and
- (c) the non-polluting solar photovoltaic system would not cause adverse impact on the environment. Rather, it helps improve the environment by reducing the use of fossil fuels and transportation of energy, and alleviating air pollution. It also helps reduce diseases and mortality.

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 for Considering Applications for Solar Photovoltaic System

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

5. Background

The FiT Scheme

- 5.1 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. It aims to encourage the private sector to consider investing in renewable energy 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 renewable energy systems and generation.
- 5.2 Any non-governmental bodies or individuals, who as customers of the relevant power company plan to install distributed renewable energy 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 FiT Scheme, an applicant may make submission to the relevant power company direct with the required documents including the preliminary layout diagram and other information of the proposed renewable energy 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 renewable energy system to the power grid. The successful applicant would be offered the FiT rate throughout the project life of the renewable energy system until end-2033. The applicant shall ensure that the design, installation, operation and maintenance of the renewable energy system comply with the applicable laws, guidelines and safety and technical guidelines.

Suspected unauthorized development

- 5.3 The public utility installation (solar photovoltaic system) and filling and excavation of land on the Site would be subject to planning enforcement action.

6. Previous Application

The Site is not involved in any previous application.

7. Similar Application

There is no similar application for solar photovoltaic system within the subject “V” zone.

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

8.1 The Site:

- (a) falls within the “V” zone of the recognised villages of Sha Kong Wai, Ngau Hom and San Hing Tsuen;
- (b) is hard-paved and erected with an NTEH covered by Building Licence No. BL 6674. Two groups of solar panels are mounted at the northwestern and southeastern portions. The solar panels and the hard-paving are not covered by any planning permission;
- (c) is accessible from Lau Fau Shan Road located to its west via a local track.

8.2 The surrounding areas are predominated by village houses within the recognised villages of Sha Kong Wai and San Hing Tsuen. Other uses such as vehicle park/parking of vehicles, storage/open storage yards, vehicle repair workshop, cultivated agricultural land and shrubland are also found in the vicinity of the Site. Some of the uses are covered by valid planning permissions, while some are suspected unauthorized developments subject to planning enforcement action.

9. Planning Intention

- 9.1 The planning intention of the “V” zone is to designate both existing recognised 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.
- 9.2 As filling of land/pond and excavation of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the environment, permission from the Board is required for such activities.

10. Comments from Relevant Government Departments

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

Land Administration

10.1.1 Comments of the District Lands Officer/Yuen Long, LandsD (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) According to the applicant's submission, no gross floor area (GFA) or covered area is proposed at the Site. However, it is noted from the layout plan and site photos provided by the applicant that the concerned 81 solar panels are installed on 41 metal stands (each metal stand is at least 1m in height) being affixed on the ground. As such, these metal stands and solar panels should be considered as structures and being counted as GFA and covered area.
- (c) The applicant should note his advisory comments in **Appendix IV**.

Environment

10.1.2 Comments of the Secretary for 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, we need to increase zero-carbon electricity supply through renewable energy development as far as possible.
- (b) The policy is for the Government to take the lead in developing renewable energy 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 FiT Scheme is introduced to provide financial incentives which can encourage the private sector to invest in distributed renewable energy. A series of measures are also introduced to facilitate and support members of the public in developing renewable energy.
- (c) The application seeks to complete the compliance with statutory planning requirements for an existing renewable energy system in "V" zone in Lau Fau Shan involving the erection of 81 solar panels for meeting the annual electricity demand of about 12 households. Subject to no in-principle objection or adverse comment from concerned departments, such as LandsD and Buildings Department, he has no objection to the application which has realised the renewable energy potential of land with limited alternative use while achieving the carbon neutrality target.
- (d) The applicant should note his advisory comments in **Appendix IV**.

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

- (a) He has no objection to the application in view of the nature and scale of the proposed development.

- (b) There is no substantiated environmental complaint pertaining to the Site in the past three years.
- (c) The applicant should note his advisory comments in **Appendix IV**.

Drainage

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

- (a) He has no objection in principle to the application from drainage point of view.
- (b) Should the Board consider that the application is acceptable from planning point of view, a condition should be stipulated requiring the applicant to submit a drainage proposal, and to implement and maintain the proposed drainage facilities to his satisfaction.

Fire Safety

10.1.5 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 his satisfaction.
- (b) The applicant should note his advisory comments at **Appendix IV**.

Building Matters

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

- (a) As indicated in the submission, the public utility installation (solar photovoltaic system) has been completed. There is no record of approval granted by the Building Authority for the existing structures at the Site. He is not in a position to offer comments on their suitability for the use proposed under the application.
- (b) The applicant should note his advisory comments in **Appendix IV**.

District Officer's Comments

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

His office has not received any feedback from locals.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Chief Engineer/Land Works, Civil Engineering and Development Department (CE/LW, CEDD);

- (c) Head of Geotechnical Engineering Office, CEDD (H(GEO), CEDD);
- (d) Project Manager (West), CEDD (PM(W), CEDD);
- (e) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (f) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (g) Commissioner for Transport (C for T);
- (h) Commissioner of Police (C of P);
- (i) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (j) Director of Electrical and Mechanical Services (DEMS).

11. Public Comments Received During Statutory Publication Period

On 17.11.2023, the application was published for public inspection. During the statutory public inspection period, two public comments from individuals (**Appendices III-1 and III-2**) were received objecting to the application on grounds that the solar photovoltaic system has caused adverse visual, landscape and glare impacts, and raised local temperature; it has impeded emergency vehicular access and hence causing safety issue; and it should instead be installed on rooftop of village houses.

12. Planning Considerations and Assessments

- 12.1 The application is for public utility installation (solar photovoltaic system), as well as filling and excavation of land at the Site within the “V” zone of three recognised villages of Sha Kong Wai, Ngau Hom and San Hing Tsuen (**Plan A-1**). Although the applied development is not in line with the planning intention of the “V” zone which is primarily intended for development of Small Houses by indigenous villagers, there is no Small House application received by LandsD on the Site apart from the existing NTEH.
- 12.2 According to the applicant, except those for self-use by the NTEH on site, the electricity generated will be sold to CLP Power via the FiT Scheme, which is jointly introduced by the Government and the two power companies until end of 2033. The solar photovoltaic system has been completed, and a ‘Completion Letter’ has been issued to CLP Power which demonstrated the technical feasibility of the proposed system. The proposed system can meet the annual electricity demand of about 12 households. SEE has no objection to the application as the proposed system has realised the renewable energy potential of land with limited alternative use while achieving the carbon neutrality target. In view of the above, approval of the application would not jeopardise the planning intention of the “V” zone in the long term.
- 12.3 The applicant also applies to regularise the land filling works of about 99m² (or 20.8% of the Site) with asphalt of about 0.3m in depth, as well as land excavation works of about 1.98m² (or 0.4% of the Site) of about 0.7m in depth for installation of the solar photovoltaic system. Filling and excavation of land within the “V” zone require planning permission from the Board as they may cause adverse drainage impacts on the adjacent areas and adverse impacts on the environment. In this regard, the CE/MN, DSD and DEP have no adverse comment from drainage and environmental perspectives.

- 12.4 The Site is located at the northwest of the recognised village of Sha Kong Wai. The surrounding areas comprise predominately village houses intermixed with, inter alia, vehicle parks/parking of vehicles. The two groups of solar panels covering areas of about 78m² and 84m² respectively which are mounted on two sets of metal frames of about 1.09m to 1.33m in height are considered generally not incompatible with the surrounding areas.
- 12.5 Other concerned departments including DEMS, CTP/UD&L of PlanD, C for T and the D of FS have no objection to or no comment on the applied development and associated filling and excavation of land from electricity supply safety, landscape, visual, traffic and fire safety perspectives. The technical requirements of CE/MN of DSD and D of FS could be addressed by imposing approval conditions recommended in paragraph 13.2 below. In view of the above, the application is generally in line with the ‘Assessment Criteria for Considering Applications for Solar Photovoltaic System’ promulgated on 7.10.2022 in that the applicant has obtained CLP Power’s ‘Completion Letter’ to demonstrate the technical feasibility of the system; the height of the applied development is in keeping with the surrounding developments and commensurate with the function it performs; relevant government departments consulted have no adverse comment on the application from the various technical aspects; and the long-term planning intention of the “V” zone would not be affected.
- 12.6 Regarding the public comments received objecting to the application on grounds as summarised in paragraph 11 above, the planning considerations and assessments in paragraphs 12.1 to 12.5 above are relevant. As for the concerns on emergency vehicular access, the Site is bounded by village houses on three sides, and D of FS has no objection in principle to the application. Regarding the concerns on glare impacts, according to the applicant, the solar panels are made up of tempered glass which would not reflect or refract sunlight.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, no time clause for commencement for the development is proposed as the public utility installation (solar photovoltaic system), and filling and excavation of land are already completed/in operation. 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 submission and implementation of fire service installations proposals 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**.

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

the applied development is not in line with the planning intention of the "V" zone which is primarily for development of Small Houses by indigenous villagers. There is no strong planning 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 planning 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 date when the validity of the permission 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 30.10.2023
Appendix Ia	SI received on 9.11.2023
Appendix Ib	SI received on 15.11.2023
Appendix Ic	FI received on 1.12.2023
Appendix Id	FI received on 7.12.2023
Appendix Ie	FI received on 13.12.2023
Appendix II	Assessment Criteria for Considering Applications for Solar Photovoltaic System Made Under Section 16 of the Town Planning Ordinance
Appendices III-1 and III-2	Public Comments Received During Statutory Publication Period
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan of the Solar Photovoltaic System
Drawings A-2 and A-3	Layout and Section Plan of the Metal Stands
Drawing A-4	Vehicular Access Plan
Drawing A-5	Land Filling Plan
Drawing A-6	Land Excavation Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2023**