

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/832

- Applicants** : 張新強先生，呂惠珊小姐
- Site** : Lots 1289 and 1293 in D.D. 113, Kam Tin South, Yuen Long
- Site Area** : 610 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
- Zoning** : “Village Type Development” (“V”)
[Maximum building height of 3 storeys (8.23m) (not applicable to ‘Public Utility Installation’)]
- Application** : Proposed Public Utility Installation (Solar Energy System)

1. The Proposal

- 1.1 The applicants seeks planning permission to use the application Site (the Site) for proposed public utility installation (solar energy system) (**Plan A-1**). 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 “V” zone and requires planning permission from the Town Planning Board (the Board). The Site is partly vacant and partly being used for parking of vehicles without valid planning permission. The Site is not subject to any previous application.
- 1.2 According to the applicants, four steel racks (three of them measuring 10m x 3.8m each and another one 13m x 3.8m) with a height of 2m to 3m will be erected on the Site to install 86 solar panels (each 1.9m long x 1m wide x 0.035m high). A container (7m long x 2m wide x 2.5m high) is also proposed under one of the racks to accommodate an electric meter. The four steel racks with solar panels will cover about 26.8% of the Site, and the remaining area will be open-air. The proposed solar energy system is to facilitate the participation in CLP Power Hong Kong Limited’s (CLP) ‘Renewable Energy Feed-in Tariff (FiT) Scheme’ and the generated electricity from the solar energy system will be sold to CLP on a commercial basis. No parking or

loading / unloading space is proposed. It is expected that the proposed use will be completed within one year from obtaining the planning approval. The layout plan submitted by the applicants are at **Drawing A-1**.

1.3 In support of the application, the applicants have submitted the following documents:

- (a) Application form with plans received on (**Appendix I**) 11.10.2019
- (b) Further Information (FI) received on 21.11.2019 (**Appendix Ia**) providing response to departmental comments (*exempted from publication*)

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in section 10 of the application form and FI in **Appendices I and Ia**. They can be summarized as follows:

- (a) An application for participating in the FiT scheme has been submitted to CLP but not yet approved.
- (b) The proposed development will not involve felling of trees, filling of land / pond or excavation of land, and will have minimal impact on the drainage, water supplies and environment of the area.

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

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

4. Background

- 4.1 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 under the Town Planning Ordinance, enforcement action will be taken.
- 4.2 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.

- 4.3 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 the design, installation, operation and maintenance of the RE system comply with the applicable laws, guidelines and safety and technical guidelines.

5. **Previous Application**

There is no previous application covering the Site.

6. **Similar Application**

- 6.1 There is no similar application for solar energy system within the same "V" zone.
- 6.2 For other areas, the Rural and New Town Planning Committee (the Committee) approved an application (No. A/NE-TK/649) for solar energy system within "Agriculture" ("AGR") zone on the approved Ting Kok OZP No. S/NE-TK/19 on a temporary basis of five years on 1.11.2019. The application was approved mainly on considerations that development of RE was an environmentally friendly initiative; the proposed development would not deprive the site of the potential for agricultural use; and no adverse impact on the surrounding areas would be incurred. Nevertheless, a temporary approval period of five years was granted with a view to allowing monitoring of the implementation progress of the solar energy system and the condition of the site.

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

- 7.1 The Site is:
- (a) partly vacant and partly used for parking of vehicles without valid planning permission; and
 - (b) accessible via a local track branching off Kam Po Road to its west.
- 7.2 The surrounding areas are predominantly rural in character, intermixed with vacant / unused land, residential dwellings / structures, open storage of

vehicles and a farm. The open storage of vehicles is a suspected unauthorized development subject to enforcement action by the Planning Authority:

- (a) to its west and south are residential dwellings / structures and unused land;
- (b) to its north are a residential dwelling / structure, open storage of vehicles and vacant / unused land; and
- (c) to its east are a farm and unused land.

8. Planning Intention

The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. 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. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

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/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots 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) The Site is accessible to Kam Po Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.

- (d) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities 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. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.
- (e) There is no Small House application approved or under processing within the Site.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period should be included.
- (c) 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 road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

9.1.3 Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD):

- (a) His department is not / shall not be responsible for the maintenance of any access connecting the Site and Kam Po Road.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to the nearby public roads or exclusive road drains.

Environment

9.1.4 Comments of the Secretary for the Environment (SEN):

- (a) He strongly supports the development of 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 increase the use of RE in Hong Kong.
- (b) Development of RE is an important part of his effort in combating climate change. Increasing the use of RE, a zero-carbon energy, can help decarbonize electricity generation sector, which contributes to about two-thirds of the carbon emissions in Hong Kong. In particular, if it 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 electricity would need to come from zero-carbon energy sources, hence promoting the development of RE has been an integral part of his decarbonization strategy.
- (c) The policy is for the Government to take lead in developing RE where technically and financially feasible, and to create conditions that are conducive to community participation. For the private sector, he and the power companies have introduced the FiT Scheme, providing financial incentives which can encourage the private sector to invest in distributed RE. A series of measures have also been introduced 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. The 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.

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

- (a) She has no objection to the application in view of the nature and scale of the proposed development.
- (b) The applicants are 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 the following:

- (i) Recommended Pollution Control Clauses for Construction Contracts (http://www.epd.gov.hk/epd/english/environmentinhk/eia_planning/guide_ref/rpc.htmk); and
- (ii) Professional Persons Environmental Consultative Committee Practice Notes (ProPECC PN) 1/94, "Construction Site Drainage".

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission of a drainage proposal for the development and implementation of the drainage proposal to the satisfaction of the Director of Drainage Services or of the Board should be included.
- (c) The applicants are reminded to maintain all the drainage facilities on site in good condition and ensure that the proposed development would neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc.

Fire Safety

9.1.7 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) In consideration of the design / nature of the proposal, FSIs are anticipated to be required. Therefore, the applicants are advised to submit relevant layout plans incorporating the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (c) However, the applicants are 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.

Water Supply

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

- (a) He has no objection to the application.
- (b) Existing water mains will be affected (**Plan A-2**). A waterworks reserve within 1.5m from the center line of the water main shall be provided to WSD. No structure shall be built or materials stored within this waterworks reserve. Free access shall be made available at all times for staff of the Director of Water Supplies or their contractor to carry out construction, inspection, operation, maintenance and repair works.
- (c) No trees or shrubs with penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water main (**Plan A-2**).
- (d) The Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.

Building Matters

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

- (a) Before any new building works are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are Unauthorized Building Works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) 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) Regulations (B(P)R) respectively.
- (c) The Site does not abut on any specified street of not less than 4.5m wide and its permitted development intensity shall be

determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

- (d) Detailed checking of plans will be carried out during the formal building plan submission stage.

District Officer's Comments

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

He has not received any comment from the locals upon close of consultation and he has no particular comment on the application.

9.2 The following Government departments have no comment on the application:

- (a) Commissioner for Police;
- (b) Director of Electrical and Mechanical Services;
- (c) Project Manager(West), Civil Engineering and Development Department; and
- (d) Director of Health.

10. Public Comment Received During Statutory Publication Period

On 18.10.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment has been received from an individual (**Appendix II**). The comment objects to the application mainly on the grounds that the proposed development is in conflict with the planning intention of the "V" zone; spare sites in villages should be used for developing housing and community facilities; precious land resources should not be used for solar panels; the applicants are commercializing the Site via the solar panels; and the FiT Scheme was conceived to set up solar panel on roofs of houses.

11. Planning Considerations and Assessments

11.1 The Site with an area of 610m² is proposed for public utility installation (solar energy system) in the "V" zone, involving 86 solar panels and a container for electric meter (**Drawing A-1**). Each solar panel has a dimension of 1.9m long x 1m wide x 0.035m high, while the converted container has a dimension of 7m long x 2m wide x 2.5m high. The proposed solar energy system will be accommodated on four racks of 2m to 3m in height covering about 26.8% of the Site. The planning intention of the "V" zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. DLO/YL advised that there is no Small House application approved or under processing within the Site. However, it is considered that the proposed solar energy system is not in

line with the planning intention of the “V” zone. No strong planning justification has been given in the submission for a departure from the planning intention.

- 11.2 The surrounding areas are predominantly rural in character, with residential dwellings / structures, a farm, an open storage yard and vacant / unused land (**Plans A-2 and A-3**). According to the proposal, the electricity to be generated by the proposed solar energy system will be sold to CLP under the FiT Scheme. The applicants have submitted an application to CLP to participate in the FiT Scheme but not yet approved by CLP. SEN supports the development of RE systems, and DEP and DEMS have no objection to / no comment on the application. Other relevant departments consulted, including C for T, CE/MN of DSD and D of FS have no adverse comment on the application. Despite no adverse comments are raised from relevant Government departments on the objective of the proposed development to generate RE / the proposed development, there is no information in the applicants’ submission to demonstrate that CLP would consider it technically feasible and acceptable to connect its power network with the proposed solar energy system.
- 11.3 There is no similar application for the solar energy system within the same “V” zone on the OZP. The approval of the application would set an undesirable precedent for similar applications to proliferate in the “V” zone. The cumulative effect of approving such similar applications would result in a general degradation of the rural environment of the area. For other areas, on 1.11.2019, the Committee has approved an application for solar energy system under “AGR” zone on the approved Ting Kok OZP on a temporary basis of five years (No. A/NE-TK/649) on considerations that development of RE is an environmental friendly initiative; the proposed development would not deprive the site of the potential for agricultural use; and no adverse impact on the surrounding areas would be incurred. An approval for a temporary period of five years was imposed mainly to allow monitoring of the implementation progress of the solar energy system and the condition of the site. The circumstances of the application in Ting Kok are not entirely applicable to the current application, in particular that the Site of this application falls within the “V” zone.
- 11.4 One public comment objecting the application was received during the statutory publication period as stated in paragraph 10 above. In this regard, the departmental comments as well as planning considerations and assessments as stated above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment in paragraph 10, the Planning Department does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the “V” zone, which is to reflect existing recognized and other

villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission for a departure from the planning intention; and

- (b) the approval of the application would set an undesirable precedent for similar applications to proliferate in the “V” zone. The cumulative effect of approving such similar applications would result in a general degradation of the rural environment of the area.

12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be granted on a temporary basis for a period of five years until **29.11.2024**, so as to allow monitoring of the implementation progress of the proposed solar energy system and the condition of the Site. The following conditions of approval and advisory clauses are also suggested for Member’s reference:

Approval Conditions

- (a) no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period;
- (b) 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 29.5.2020;
- (c) in relation to (b) 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 29.8.2020;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) 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 29.5.2020;
- (f) in relation to (e) 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 29.8.2020;
- (g) if any of the above planning condition (a) or (d) 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

- (h) if any of the above planning condition (b), (c), (e) or (f) 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 attached at **Appendix III**.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.
- 13.3 Alternatively, should the Committee decide to approve the application on a temporary basis, 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. Attachments

Appendix I	Application form with plans received on 11.10.2019
Appendix Ia	FI received on 21.11.2019
Appendix II	Public comment received during the statutory publication period
Appendix III	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Access Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2019**