

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-SKW/105

- Applicant** : Mr. KONG Wai Keung
- Site** : Lot 37 in D.D. 383, So Kwun Wat, Tuen Mun, New Territories
- Site Area** : 1,650m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved So Kwun Wat Outline Zoning Plan (OZP) No. S/TM-SKW/13
- Zoning** : “Green Belt” (“GB”)
- Application** : Proposed public utility installation (solar energy system)

1. The Proposal

- 1.1 The applicant seeks planning permission for the proposed installation of solar energy system on the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “Green Belt” (“GB”) on the approved So Kwun Wat Outline Zoning Plan (OZP) No. S/TM-SKW/13. According to the Notes of the OZP, the proposed solar energy system, which is regarded as ‘Public Utility Installation’ use, within the “GB” zone requires planning permission from the Town Planning Board (the Board). Currently, the Site is mostly covered by meadow with some trees and two structures for storage use (**Plans A-3 and A-4a**).
- 1.2 According to the applicant’s proposal, the proposed system involves 616 solar panels (1.65m (L) x 0.992m (W) x 0.035m (H) each) and two converted containers (6.06m (L) x 2.44m (W) x 2.59m (H) each) for accommodating electricity metres (**Drawings A-1 and A-2**). The proposed system will be connected to the existing electrical power network of CLP Power Hong Kong Limited (CLP) under the ‘Renewal Energy Feed-in Tariff Scheme’ (FiT Scheme). The amount of electricity expected to be generated is about 225,666kW per year which will be sold to CLP on commercial basis. No parking and loading/unloading space is proposed. The existing vegetation will not be affected and the existing tree will be transplanted within the Site (**Drawing A-3**). The existing structures on the Site (**Plans A-4a and A-4b**) will be demolished for installation of the proposed system.
- 1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form received on 30.9.2019 **(Appendix I)**
- (b) Applicant's email dated 2.10.2019 providing replacement pages of application form **(Appendix Ia)**
- (c) Applicant's email dated 4.10.2019 providing replacement pages of application form **(Appendix Ib)**
- (d) Further information (FI) dated 16.10.2019 providing responses to comments of Transport Department (TD) and Urban Design and Landscape Section of Planning Department (UD&L of PlanD) **(Appendix Ic)**
[the FI was accepted and exempted from publication requirements]
- (e) FI dated 28, 29 and 30.10.2019 providing responses to comments of District Lands Office/ Tuen Mun (DLO/TM) and District Planning Office/ Tuen Mun and Yuen Long West (DPO/TM&YLW) and enclosing schematic drawings for the proposed system. **(Appendix Id)**
[The FI was accepted and exempted from publication and recounting requirements.]
- (f) FI dated 3.11.2019 providing responses to comments of Drainage Services Department (DSD) and Geotechnical Engineering Office of Civil Engineering and Development Department (GEO of CEDD) **(Appendix Ie)**
[The FI was accepted and exempted from publication and recounting requirements.]
- (g) FI dated 11.11.2019 providing responses to comments of DPO/TM&YLW and UD&L of PlanD **(Appendix If)**
[The FI was accepted and exempted from publication and recounting requirements.]
- (h) FI dated 13 and 14.11.2019 providing responses to comments of Environmental Protection Department (EPD) and Agriculture, Fisheries and Conservation Department (AFCD) **(Appendix Ig)**
[The FI was 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 summarised as follows:

- (a) It is noted that the Environment Bureau is in collaboration with CLP to promote the FiT Scheme. The applicant supports environmental protection and therefore proposes to install a solar energy system on the Site.

- (b) Using solar energy would be beneficial to the surrounding area as it could reduce reliance on using oil, coal and natural gas for generation of electricity. It could reduce air pollution and ease global warming.
- (c) The proposed system would not cause any adverse impact to the surrounding area and the adjacent stream since the proposed system would not release harmful emission, including gases, sewage and pollutants.
- (d) Clearance of existing vegetation within the Site will not be involved. The existing tree within the Site will be transplanted (**Drawing A-3**). Adverse landscape impact is not anticipated.
- (e) There is a creek adjacent to the Site. The water simply flows from the Site to the creek. No drainage system or discharge points would be affected by the proposed system.
- (f) A technical team has been commissioned to prepare detailed technical proposal for the proposed system and will be responsible for maintenance and management of the system.
- (g) Application for participating into the FiT Scheme has been submitted to CLP. CLP advised that permissions and approvals from relevant Government departments, such as Planning Department, for the proposed system should be obtained. CLP will process the application if the applicant has obtained the permissions and approvals from relevant departments within the time limit (**Appendix Id**).

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

The applicant is not the “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31) by obtaining owners’ consent. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Application for Development within the Green Belt zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) is relevant to the application. Relevant extracts of the Guidelines are attached at **Appendix II**.

- (a) There is a general presumption against development (other than redevelopment) in a "GB" zone.
- (b) An application for new development in a "GB" zone will only be considered in exceptional circumstances and must be justified with very strong planning ground;
- (c) Applications for Government, Institution or Community (G/IC) uses and public utility installations must demonstrate that the proposed development is essential and that no alternative sites are available.
- (d) The design and layout of any proposed development should be compatible with the

surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment.

- (e) The vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features.
- (f) The proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area.
- (g) The proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution.
- (h) Any proposed development on a slope or hillside should not adversely affect slope stability.

5. Background

- 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 (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.
- 5.2 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.

6. Previous Application

There is no previous application covering the Site.

7. Similar Application

- 7.1 There is no similar application for the proposed solar energy system within the

same “GB” zone.

- 7.2 For other areas, 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 environmental friendly initiative; the proposed system 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 allow monitoring of the implementation progress of the solar energy system and the condition of the site.

8. The Site and Its Surrounding Areas (Plans A-2 to A-4b)

8.1 The Site:

- (a) is mostly covered by meadow with some trees and two structures for storage use (**Plans A-3 and A-4a**);
- (b) is surrounded by vegetated slopes on its north, west and east (**Plans A-3 and A-4b**);
- (c) is adjacent to a stream to its southeast (**Plan A-2**); and
- (d) is only accessible through private lots and the Government land located between the Site and the footbridge (**Plans A-2, A-3 and A-4b**). Vehicular access is only available at the local track adjacent to the footbridge which links to So Kwun Wat Tsuen Road.

8.2 The surrounding areas have the following characteristics:

- (a) rural in character with scattered vacant land set against green and vegetated land/ hillslopes (**Plans A-2, A-3 and A-4b**);
- (b) further to its west is a goat farm with sheds (**Plan A-2**); and
- (c) further to its north about 100m is Tai Lam Country Park and MacLehose Trail Section 10 (**Plan A-3**).

9. Planning Intention

The planning intention of “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets. There is a general presumption against development within this zone. However, limited development may be permitted if they are justified on strong planning grounds.

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/Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) The Site falls within Lot No. 37 in D.D. 383 ('the Lot'). The Lot is Old Schedule Lot held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Site inspection revealed that there were two structures and some mature trees on the Lot. No permission has been given for the erection of structures on the Lot.
- (c) Vehicular access is only available via a road branching off from So Kwun Wat Tsuen Road up to a footbridge near the southwestern tip of the Site. The Site can only be accessed through private lots and Government land located between the Site and the footbridge. His Office does not carry out maintenance works for the said road nor guarantee that right-of-way over the Government land will be given to the Site. The applicant shall make his own arrangement for access over the private land affected.
- (d) The layout plan provided by the applicant only indicates the arrangement of solar photovoltaic (PV) panels and lateral side of the solar panel without installation details. The containers and solar panels may be regarded as structures and prior permission from his Office will be required.
- (e) In the event that planning permission is given by the Board and the proposed system involves erection of structures, the lot owner may consider submitting a formal application to his office for a Short Term Waiver (STW) to permit erection of the proposed structures on the Lot. However, there is no guarantee that the application will be approved and he reserves his right to take any action as may be appropriate. The application will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the application is approved, it would be subject to such terms and conditions as the Government shall deem fit to do so, including charging of waiver fee, deposit and administrative fee etc.
- (f) Notwithstanding the above, his Office reserves the right to take enforcement actions as considered appropriate against any unauthorised erection/extensions/alterations of the structures affected irrespective of whether planning permission will be given or not.

Traffic

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

- (a) He has no objection to the application given that the trip generation

induced by the proposed system is insignificant and there is no vehicular access or car parking space proposed for the operation of the proposed system.

- (b) However, the Site is connected to the public road network via a section of local access road which is not managed by his Department. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) He has no comment on the application from highways maintenance perspective on the understanding that no vehicular access is proposed and no public road is affected by the application.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

10.1.4 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 efforts in combating climate change. Increasing the use of RE, a zero-carbon energy, can help decarbonise electricity generation sector, which contributes to about two-thirds of the carbon emission in Hong Kong. In particular, if it is able 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. Therefore, promoting the development of RE has been an integral part of decarbonisation strategy.
- (c) The policy is for the Government to take the 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. Example 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 organisations. 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.

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

- (a) Based on the information provided by the applicant, the proposal involves installation of solar energy system with 616 nos. of solar panels within the Site of 1,650m² to generate an annual average of 225,666kW of renewable energy. The applicant intends to join the FiT Scheme of CLP Power Hong Kong Ltd. In view of the nature and scale of the proposed system, he has no objection to the application.
- (b) The applicant is reminded to strictly comply with the relevant pollution control ordinances, including Waste Disposal Ordinance and Water Pollution Control Ordinance, and to implement appropriate pollution control measures to minimise any potential environmental impacts during construction of the system. Reference could be made to relevant publications/ guidelines including the following:
 - Recommended Pollution Control Clauses for Construction Contracts (available at: https://www.epd.gov.hk/epd/english/environmentinhk/eia_planning/guide_ref/rpc_1.html)
 - Professional Persons Environmental Consultative Committee (ProPECC) Practice Notes 1/94, 'Construction Site Drainage'

Urban Design and Visual

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

The Site falls within an area zoned "GB" on the approved So Kwun Wat OZP No. S/TM-SKW/13. According to the applicant's submitted information, the site area is 1,650m². The proposal involves two converted containers for electricity meters and 616 solar panels with dimension of each solar panel is about 1.65m (L) x 0.992m (W) x 0.035m (H). Given the small scale of the proposed system without any high-rise structure as displayed in the submitted FI, adverse visual impact arising from the proposed system is not anticipated.

Landscape

10.1.7 Comments of CTP/UD&L, PlanD:

- (a) He has reservation on the application from the landscape planning perspective.
- (b) The site area is about 1,650m², located near Pak Shek Hang, in an area of miscellaneous rural fringe landscape character surrounded by meadow and natural woodland (**Plans A-1 and A-3**). With reference to the site visit conducted on 16.10.2019 and aerial photos taken in 2015 and 2018, the Site is mostly covered by meadow (**Plans A-4a and A-4b**). A few existing trees of common species and some minor temporary structures are found within the Site (**Plan A-4a**). The

applicant clarified in the FI (**Appendix If**) that the existing tree will be transplanted within the Site, however, the plinths of solar panel will impose adverse impact on the existing landscape resources. The rural fringe landscape character will also be altered inevitably due to the proposed development. The approval of such application would set an undesirable precedent for other similar applications within the "GB" zone, and would affect the integrity of the adjacent natural woodland.

Nature Conservation

10.1.8 Comments of Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) It is noted from the applicant's FI (**Appendix Ig**) that jib crane would be used to transport solar panels and containers to the Site, and would not cause adverse impacts on the stream to the south-east of the Site. The FI also revealed that no vegetation clearance would be carried out.
- (b) However, the Site is located 100m (**Plans A-1 and A-3**) downhill of the MacLehose Trail and the Tai Lam Country Park (TLCP). The applicant shall provide information to demonstrate if the proposed system would induce any indirect environmental impacts including visual impacts on the surrounding TLCP, and if mitigation measure(s) such as the use of non-reflective solar panels, would be adopted under the project.

Drainage

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

- (a) Upon reviewing the applicant's FI dated 3.11.2019 (**Appendix Ie**), it is considered that the FI does not contain sufficient information and details to demonstrate that there is adequate drainage so that no adverse drainage impact would result from the proposed system.
- (b) Notwithstanding the above, should the application be approved, an approval condition may be included to request the applicant to submit and implement a drainage proposal to the satisfaction of Director of Drainage Services to ensure that the proposed system will not cause any adverse drainage impact to the adjacent area.
- (c) Specific comments on the applicant's FI are provided in **Appendix III**.

Buildings Matters

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

- (a) There is no record of approval by the Building Authority for any structures at the Site and he is not in a position to offer comments on its suitability for the use related to the application.

- (b) If the existing structures erected on leased land are without approval of the BD (not being a New Territories Exempted House), they are unauthorised under the Buildings Ordinance (BO) and should not be designated for any approved use under the application.
- (c) Before any new building works (including containers/ open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorised Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (d) For UBW erected on lease land, enforcement action may be taken by the BD to affect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (e) If the proposed use under application is subject to the issue of a license, the applicant is reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.
- (f) In connection with 10.1.10 (c) above, the Site shall be provided with means if 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.
- (g) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.
- (h) Formal submission under the BO is required for any proposed new works, including any temporary structures. Detailed comments will be provided at the building plan submission stage.

Fire Safety

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

He has no objection in principle to the application subject to water supplies for firefighting and fire services installations (FSIs) being provided to his satisfaction.

- (a) Detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.
- (b) Furthermore, emergency vehicular access (EVA) in the Site shall comply with the standard as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 under Regulation 41D of the B(P)R which is administrated by BD.

Water Supplies

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

- (a) He has no objection to the application.
- (b) The Site is outside WSD's water supply zone, and that there will be no water supply available to the proposed system.

Others

10.1.13 Comments of Director of Electrical and Mechanical Services (DEMS):

- (a) He has no objection to the application;
- (b) all fixed electrical installations of the solar energy system shall comply with the Electricity Ordinance (Cap. 406) and its subsidiary regulations.

District Officer's Comments

10.1.14 Comments of District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD):

His office has distributed consultation letters to the locals concerned and he understands they would provide their comments (if any) to the Board direct.

10.2 The following Government departments have no objection to/comments on the application:

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (b) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (c) Director of Leisure and Cultural Services (DLCS);
- (d) Director of Health (D of H);
- (e) Commissioner of Police (C of P);
- (f) Director of Food and Environmental Hygiene (DFEH); and
- (g) Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES(A&M), AMO).

11. Public Comments Received During the Statutory Publication Period

11.1 The application was published on 11.10.2019. During the statutory public inspection period, nine public comments were received from Kadoorie Farm and Botanic Garden Corporation, World Wide Fund, the Hong Kong Bird Watching Society, Designing Hong Kong Limited and members of the public. All the public comments raised objection to the application. Amongst the public comments, four of them are in the form of standard comments (**Appendix IVa**). Samples of the comments received are at **Appendices IV** and **IVa**.

11.2 The major objection grounds are as follows:

- (a) The Site is located within “GB” zone and close to a country park. The proposed system is in conflict with the planning intention as it will involve vegetation clearance. The benefits of existing mature trees and plants far outweigh those of constructed solar panels. The approval of such application will set an undesirable precedent.
- (b) There is severe land shortage in Hong Kong. It is unacceptable to approve any plans that turn precious land resources into solar panel farms. This type of ‘Green Initiative’ is only appropriate for areas with vast expanses of spare land.
- (c) The FiT Scheme by CLP was conceived to encourage home and building owners to set up solar panels on their roofs. CLP should also make it clear that the initiatives will not be extended to commercial enterprises.

12. Planning Considerations and Assessment

12.1 The Site with a site area of about 1,650m² is proposed for installation of solar energy system which involves 616 solar panels and two containers for electricity metres (**Drawings A-1 and A-2**). The solar panel has a dimension of 1.65m (L) x 0.992m (W) x 0.035m (H) and the converted container has a dimension of 6.06m (L) x 2.44m (W) x 2.59m (H). The proposed system, which falls within an area zoned “GB”, is not in line with the planning intention of the “GB” zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets. There is a general presumption against development within this zone. The applicant has not provided any strong planning justification in the submission to merit a departure from such planning intention.

12.2 The Site is mostly covered by meadow with some trees and structures for storage use. Surrounding area of the Site is predominantly rural in nature with goat farm, abandoned farmland and vegetated land/hillslope linking to Tai Lam Country Park (TLCP) and MacLehose Section 10 (**Plans A-2 and A-3**). Despite the applicant’s claim that no clearance of existing vegetation will be involved and the existing tree will be transplanted within the Site (**Drawing A-3**), the proposal involves installation of 616 solar panels covering most of the Site (**Drawings A-1 and A-2**). CTP/UD&L, PlanD has reservation on the application as the rural fringe landscape character of the Site will be inevitably altered. Besides, the plinths for the solar panels will impose adverse impact on the existing landscape resources. DAFC also commented that the applicant had not provided information to demonstrate that the proposed system would not have indirect environmental impacts, including visual impacts, on TLCP. The application does not meet the TPB Guidelines (TPB PG No. 10) as it will affect the existing landscape and cause adverse visual impact. Moreover, the applicant fails to demonstrate that the proposed system is essential and there is no alternative site available.

12.3 According to the applicant, the amount of electricity expected to be generated by the proposed system is about 225,666kW per year which will all be sold to the CLP under the FiT Scheme. CLP will process the application for joining the FiT System upon receipt of approval from relevant departments. SEN supports the development

of renewable energy. DEP and DEMS have no objection to the application. Other Government departments consulted, including C for T, CE/MN of DSD, CBS/NTW of BD, D of FS and D of Health, have no objection to or adverse comments on the application.

- 12.4 There is no similar application for installation of solar energy system within the “GB” zone on the So Kwun Wat OZP. Approval of the application would set an undesirable precedent for similar uses to proliferate into the “GB” zone. The cumulative effect of approving such similar applications would result in a general degradation of the rural environment and landscape quality of the area. For other areas, the Committee, on 1.11.2019, 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 agriculture use; and no adverse impact on the surrounding areas would be incurred. The circumstances of the application in Ting Kok are not entirely applicable to the current application.
- 12.5 Regarding the public comments raising concerns on or objection to the application as detailed in paragraph 11, planning assessments in paragraphs 12.1 to 12.4 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 mentioned in paragraph 11 above, the Planning Department does not support the application for the following reasons:
- (a) The development is not in line with the planning intention of the “GB” zone, which is primarily intended for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intention;
 - (b) the proposed use is not in line with the Town Planning Board Guidelines for ‘Application for Development within the Green Belt zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) in that the applicant fails to demonstrate that the proposed system is essential, no alternative site is available, and there will be no adverse landscape and visual impacts on the surrounding areas and Tai Lam Country Park; and
 - (c) the approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such similar applications would result in a general degradation of the natural environment and landscape quality of the “GB” zone.
- 13.2 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 Members’

reference:

Approval Conditions

- (a) the submission of the fire services installation 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**;
- (b) in relation to (a) above, the implementation of fire services installation 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**;
- (c) 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**;
- (d) in relation to (c) 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**;
- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) if planning condition (e) 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;
- (g) if any of the above planning conditions (a), (b), (c) or (d) 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.
- (h) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

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

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 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.

15. Attachments

Appendix I	Application form received on 30.9.2019 together with attachments
Appendix Ia	Applicant's email dated 2.10.2019
Appendix Ib	Applicant's email dated 4.10.2019
Appendix Ic	Applicant's email dated 16.10.2019
Appendix Id	Applicant's emails dated 28,29 and 30.10.2019
Appendix Ie	Applicant's email dated 3.11.2019
Appendix If	Applicant's email dated 11.11.2019
Appendix Ig	Applicant's emails dated 13 and 14.11.2019
Appendix II	Town Planning Board Guidelines TPB PG-No. 10
Appendix III	Detailed Departmental Comments
Appendices IV and IVa	Public comments
Appendix V	Advisory clauses
Drawings A-1	Layout plan
Drawing A-2	Schematic drawing for the proposed system and solar panel
Drawing A-3	Plan indicating the proposed location for transplanted tree
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2019**