

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/H20/190

<u>Applicant</u>	小西灣南海觀音廟管理委員會 represented by Kenneth To & Associates Limited
<u>Site</u>	Government land at the hillside near Siu Sai Wan Sitting-out Area No. 1, Chai Wan, Hong Kong
<u>Site Area</u>	About 165m ²
<u>Lease</u>	Government Land (Existing temple and shrine under Short Term Tenancy No. EHX-331)
<u>Plan</u>	Approved Chai Wan Outline Zoning Plan (OZP) No. S/H20/23
<u>Zoning</u>	“Green Belt” (“GB”)
<u>Application</u>	Religious Institution (Temple)

1. The Proposal

- 1.1 The applicant seeks planning permission for the proposed redevelopment of an existing temple at the application site (the site) and to continue to use part of the site as a shrine. The site falls within an area zoned “GB” on the approved Chai Wan Outline Zoning Plan (OZP) No. S/H20/23 (**Plan A-1**). According to the Notes of the OZP for the “GB” zone, ‘Religious Institution (Temple)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board) while the shrine is a use that is always permitted under the Covering Notes of the OZP.
- 1.2 In support of the application, the applicant has submitted the following documents:
- (a) Application form with a clarification letter on the proposed development parameters received on 24.10.2018 **(Appendix I)**
 - (b) Planning Statement received on 24.10.2018 **(Appendix Ia)**
 - (c) Further information received on 30.11.2018 providing missing pages of the submitted Planning Statement **(Appendix Ib)**
(Accepted and exempted from the publication and recounting requirements)

1.3 The main development parameters of the proposal are set out below:

Site Area	About 165m ²
Total Gross Floor Area (GFA)	Not more than 38.5m ²
- Redeveloped temple	Not more than 37.5m ²
- Existing shrine	Not more than 1m ²
Site Coverage	Not more than 23.4%
No. of Blocks	2 (The proposed temple and the existing shrine)
Proposed Building Height	Not more than 4m
No. of storeys	1

1.4 The proposed layout plans and section plans are shown at **Drawings A-1 to A-5**, the proposed landscape plan, tree survey plan and compensatory tree plan are at **Drawings A-6 to A-8**, and an artist's impression of the proposed temple is at **Drawing A-9**.

1.5 The applicant proposes to demolish the existing temple (4m² in area) located within the northern top part of the site upon completion of the new temple and to convert the area occupied by the existing temple into an open space with benches for public enjoyment. A setback of 3m would be allowed between the proposed temple and the existing footpath (Leaping Dragon Walk). According to the applicant, 13 trees and 2 undersized trees would be affected due to required slope upgrading works. Compensatory planting of 13 trees has been proposed.

1.6 The new temple would accommodate the portraits of Tin Hau, Kwun Yum (Guanyin) and Tei Chong Wong and provide basic facilities including an incense burner, several offering tables, a staff room and a store room. An existing shrine occupying an area of about 1m² would be retained.

1.7 The applicant has submitted a landscape proposal and a geotechnical planning review report (GPRR) in support of the application.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Section 4 of the planning statement in **Appendix Ia**. They are summarised as follows:

Respond to the needs of community

2.1 The existing Nanhai Guanyin Temple and the court are too small to accommodate worshippers, forcing them to gather on the footpath outside the temple without any weatherproof structure. The proposed redevelopment can provide worshippers a

sheltered space for religious practices, while minimising the impacts to the users of Leaping Dragon Walk.

Desirable location to guard the traditional religious practice

- 2.2 The applicant has been operating the Temple for over a decade. The site is surrounded by tranquil natural environment yet accessible by the Siu Sai Wan community. The site is suitable and desirable for religious practices, particularly for temples dedicated to Kwun Yum (Guanyin).

Appropriate Scale of Redevelopment

- 2.3 The proposed redevelopment is a single-story block with a GFA of about 37.5m². The remaining portion of the site will be reserved for a small shrine, landscaping and open space purposes. The size of the proposed development has been minimised compared with other small temples in Hong Kong. The size of the proposed redevelopment is based on the actual need of the worshippers and basic furniture required by the temple. It is compatible with the surrounding natural environment.

No insurmountable adverse technical impacts

- 2.4 Compensatory planting has been proposed to enhance the landscape quality of the site (**Drawings A-6 to A-8**). The planting will also serve as a buffer zone between the temple and the walking path, and provide a better walking environment. No adverse impact from landscape perspective is envisaged.
- 2.5 The GPRR has concluded that minor open cutting and slope upgrading works would be required for the proposed redevelopment. A buffer distance has been allowed between the site and nearby man-made slopes. No adverse geotechnical impact is anticipated.

Compliance with TPB PG-No.10 for Development within “GB” Zone

- 2.6 The proposed redevelopment is in compliance with the relevant main planning criteria set in the TPB PG-No. 10 for Development within “GB” Zone.

3. Background

- 3.1 The Nanhai Guanyin Temple was originally located in Shau Kei Wan and mainly served the fishermen and squatter residents there. It was demolished in 1988 to make way for public housing development. In 1990, a group of worshippers who moved to Siu Sai Wan built a temporary temple at the site to continue their religious practice. However, the temple structure was demolished by the Squatter Control Unit of the Lands Department (LandsD) in 2003 as it occupied government land without permission.
- 3.2 The Siu Sai Wan Residents’ Association obtained an STT for the use of the site in 2004, and the existing temple and shrine were constructed and opened to the public in 2006.

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

As the site involves government land only, the “owner’s consent/notification” requirement as set out in the Town Planning Board Guidelines on Satisfying the Owner’s Consent/Notification Requirement under Section 12A and 16 of the Town Planning Ordinance” (TPB PG-No.31A) is not applicable to the application.

5. Town Planning Board Guidelines

The Town Planning Board Guidelines for Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10) are relevant to this application. The relevant assessment criteria are summarised as follows:

- (a) there is a general presumption against development (other than redevelopment) in a “GB” zone. In general, the Board will only be prepared to approve application for development in the context of requests to rezone to an appropriate use;
- (b) application for new development in a “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of surrounding areas;
- (c) applications for G/IC uses and public utility installations must demonstrate that the proposed development is essential and that no alternative sites are available;
- (d) passive recreational uses which are compatible with the character of surrounding areas may be given sympathetic consideration;
- (e) 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;
- (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) 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; and
- (h) any proposed development on a slope or hillside should not adversely affect slope stability.

6. Previous Application

There is no previous application covering the site.

7. Similar Applications

There is no similar application within the “GB” zone of the Chai Wan OZP.

8. The Site and its Surroundings (Plans A-2 to A-7)

8.1 The site is:

- (a) a piece of government land located at the hillside of Siu Sai Wan;
- (b) currently occupied by a temple and a shrine under a STT;
- (c) partly bounded by Leaping Dragon Walk; and
- (d) located about 110m away from Fullview Garden to the south and 130m away from Island Resort to the northwest respectively.

8.2 The surrounding area has the following characteristics:

- (a) natural hill slopes covered by vegetation;
- (b) in close proximity to Siu Sai Wan Sitting-out Area No.1 to the southeast; and
- (c) to the west and northwest are Siu Sai Wan promenade and Siu Sai Wan Salt Water Pumping Station.

9. Planning Intention

The planning intention of “GB” is primarily for the conservation of the existing natural environment amid the built-up areas/at the urban fringe, to safeguard it from encroachment by urban type development, and to provide additional outlets for passive recreational activities. There is a general presumption against development within this zone.

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/Hong Kong East, Lands Department (DLO/HKE, LandsD):

- (a) the application is for expanding the temple use on the site on majority unleased and unallocated Government land. Within the site, the existing temple and shrine are covered by a STT of site area of approximately 4.1m². The site includes and affects a public street light at the southeast corner; and

- (b) the applicant will need to apply to LandsD for temple use on government land with policy support from the relevant bureau with justification upon the approval by the Board. There is no guarantee that the proposed transaction will be approved and will be considered by LandsD acting in the capacity as the landlord at its sole discretion. If the proposed transaction is approved, it would be subject to such terms and conditions, including, among other, charging of rent and administrative fees, as may be imposed by LandsD.

Building Matters

10.1.2 Comments of the Chief Building Surveyor/Hong Kong East & Heritage, Buildings Department (CBS/HKE&H, BD):

- (a) no objection to the application;
- (b) as indicated in the application, the site is on government land. As such, BD has no comment to offer as any proposal for a site on government land is outside the jurisdiction of the Buildings Ordinance (BO);
- (c) in case the land title in respect of the site would be granted to the applicant in the form of STT or lease etc., BD has the following comments under the BO:
 - (i) the development intensity of the Site shall be determined by the Building Authority (BA) under Building (Planning) Regulation 19(3) if it is not abutting a specified street of not less than 4.5 wide;
 - (ii) if provision of Emergency Vehicular Access (EVA) in compliance with Building (Planning) Regulation 41D and Code of Practice for Fire Safety in Buildings 2011 (FS Code) could not be made, the requirements and procedures as laid down in Subsection D25 of FS Code should be followed;
 - (iii) all existing building works erected on unleased government land (i.e. before the grant of a STT/lease) do not come under the control of the BO, and are not unauthorized for the purpose of the BO; and
- (d) detailed comments on the compliance with the BO will be made at building plan submission stage.

Fire Safety

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

- (a) no objection to the application, subject to fire service installations and water supplies for firefighting being provided to the satisfaction of the Fire Services Department. Detailed fire services requirement will be formulated upon receipt of formal submission of general building plans;

- (b) the applicant is advised to observe the requirements of EVA as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Building 2011 which is administered by BD; and
- (c) with regard to non-provision of EVA, advice may be sought from BA. Upon receiving the referral from the respective BA with detailed information and layout plan of the building/structures, comments will be offered to BA for consideration.

Environment

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

- (a) there is an existing temple at the site which is currently in use, which the applicant proposes to redevelop under the subject application. There is no joss burner. With the site of about 165m² and located over 110m from the nearest residential blocks (Fullview Garden), it is considered that the proposal would unlikely give rise to insurmountable environmental problem; *and*
- (b) nevertheless, if there is any joss paper burning activity within the site in the future, the applicant is advised to make reference from Environmental Protection Department's "Guidelines on Air Pollution Control for Joss Paper Burning at Chinese Temples, Crematoria and Similar Places (廟宇、火葬場及其他祭祀場所燃燒紙錢的空氣污染控制指引)"; ~~and~~
- ~~(c) should the Board approve this application, approval conditions requiring the applicant to submit a sewerage impact assessment (SIA) to the satisfaction of DEP or of the Board; and to implement the local sewerage upgrading/sewerage connection works identified in the SIA to the satisfaction of the Director of Drainage Services or of the Board are recommended to be included in the planning permission.~~

Urban Design and Landscape

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

Urban Design

- (a) the proposal is mainly for the redevelopment of an existing temple at the site. The proposed temple is of one storey (4m in height) with floor area of about 37.5m². The site is situated on vegetated hillside along hiking trails. The development is not considered incongruent to the context and character of the surrounding area, and significant visual impact on the surrounding is not anticipated;

Landscape

- (b) no objection to the application;

- (c) according to the submitted information and site photo record of 2.11.2018 from District Planning Officer/Hong Kong, the site within the “GB” zone is a gentle slope from the south to north ranging from approximate 23.38mPD to 18.45mPD with vegetation cover. The northern portion of the site has been paved and is currently occupied by the existing temple. Siu Sai Wan Sitting-out Area No. 1 is at its southeast. The proposed redevelopment of the existing temple is considered not entirely incompatible with the surrounding environment;
- (d) based on the tree survey information, a total of 22 nos. existing trees including 2 nos. of undersized trees with 79mm DBH are identified within the site. They are all common species and no registered Old and Valuable Trees (OVT) or rare tree species are found. The proposed redevelopment is in conflict with the existing trees and more than half of the trees, i.e. 15 out of 22 are proposed to be felled. Nevertheless, the applicant proposed tree planting as buffer to screen off the proposed works in the landscape proposal with the consideration of slope gradient for the affected area;
- (e) for enhancement of greenery effect, apart from the proposed new trees as shown in Drawing No. CP-01, the applicant should maximise the green opportunity by planting additional woodland seedling of native species on the affected slope; and
- (f) should the Board approve the application, the following landscape condition is suggested to be included with the planning approval:

submission and implementation of a landscape proposal to the satisfaction of the Director of Planning or of the Board.

10.1.6 Comment of Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) no strong view on the application;
- (b) it is noted that the site comprises an existing temple and a wooded slope area bounded by existing footpaths. The trees to be affected by the application are mainly common species; and
- (c) regarding the landscape proposal, T1 should be *Sterculia lanceolata* and T20 should be *Eurya nittida*. Besides, the height of T3 and T6 were underestimated.

Water Supply

10.1.7 Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) no objection to the application; and
- (b) for the provision of water supply to the development, the inside service may be needed to be extended to the nearest suitable government water mains for connection. The applicant shall resolve any land matter

(such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside service.

Slope Safety

10.1.8 Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) no objection to the application from geotechnical point of view; and
- (b) based on the GPRR, it is noted that there is no registered slope/retaining wall that will affect or be affected by the proposed development and the natural terrain overlooking the site is not steep and does not meet the requirement for Natural Terrain Hazard Study.

Others

10.1.9 Comments of the Secretary for Home Affairs (S for HA):

- (a) no objection to the application from religious point of view; and
- (b) should the applicant wish to apply for concessionary land premium for the development at later stage, S for HA would only consider giving policy support for concessionary premium for land grant cases relating to religious facilities if the applicant is a bona fide religious and charitable organisation under section 88 of the Inland Revenue Ordinance (IRO) under the prevailing policy. It is noted that the applicant is not a charitable organisation under section 88 of the IRO.

10.1.10 Comments of the District Officer (East), Home Affairs Department (DO(E), HAD):

Mr. Wong Wai-shun, the Chairman of Island Resort Owners Committee cum Vice-Chairman of Yee Wan Area Committee, is concerned about the potential environmental nuisance. Relevant stakeholders (such as local residents living in the vicinity) should be consulted at an appropriate juncture if the application is being further taken forward.

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

- (a) Commissioner for Transport;
- (b) Chief Highway Engineer/Hong Kong, Highways Department;
- (c) Chief Engineer/Hong Kong & Islands, Drainage Services Department; and
- (d) Commissioner of Police.

11. Public Comments Received During Statutory Publication Period

11.1 During the statutory publication period of the application (ended on 23.11.2018), a total of 4,108 comments were received. Amongst the public comments received, 4,106 support the application of which 4,098 are in the form of standard comments from individuals; and the remaining two oppose the application. The supporting comments are submitted by Legislative Council members Hon Starry Lee Wai-king, Hon Cheung Kwok-kwan, Hon Wong Ting-kwong, Dr Hon Elizabeth Quat, District Council members Mr Kwok Wai-keung Aron, Mr Leung Kwok-hung David, Mr Wong Kwok-hing and Ms Chik Kit-ling Elaine, Owners' Corporation of Cheerful Garden, 11 local associations and members of the general public; while the opposing comments are submitted by members of the general public. A full set of the public comments received are at **Appendix II** for Members' reference.

11.2 The major grounds of the public comments received can be summarised as follows:

Supporting Comments

- (a) the existing temple is too small. The redevelopment proposal can benefit worshippers, hikers and residents nearby by providing space and shelter for worship and rest;
- (b) there is no decent temple within Siu Sai Wan, although it has a population of approximately 80,000 persons;
- (c) the temple has existed and supported the community for years. The culture and tradition should be conserved;
- (d) the temple can promote Chinese religious culture and social harmony;
- (e) the temple, together with the existing facilities/attractions along Leaping Dragon Walk, can form an integrated area for religious, cultural and heritage tourism; and
- (f) according to the technical assessments submitted by the applicant, the redevelopment proposal has no insurmountable impacts to the environment.

Opposing Comments

- (a) potential air and noise pollution resulting from the burning of joss sticks and papers. Religious ceremonies will bring disturbance and undesirable impacts to the residents nearby;
- (b) increasing number of worshippers will worsen the disturbance to the community and congestion;
- (c) encroachment of the "GB" zone with temple use will damage the vegetation and landscape;
- (d) Guanyin would not want green belt to be removed for her benefit;

- (e) religious institutions often start out small and justify their expansion with different excuses;
- (f) the demand can be satisfied by other temples nearby; and
- (g) approval of the application would create an undesirable precedent for similar applications.

12. Planning Considerations and Assessment

- 12.1 The application is to seek planning permission for the redevelopment of an existing temple within the “GB” zone. The planning intention of “GB” zone in the area is primarily for the conservation of the existing natural environment amid the built-up areas/at the urban fringe, to safeguard it from encroachment by urban type development, and to provide additional outlets for passive recreational activities. There is a general presumption against development in the zone. According to TPB PG-No. 10, new development in a “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The assessment criteria have been set out in paragraph 5.1 above.
- 12.2 The current proposal is to redevelop an existing temple which has been serving the residents of Siu Sai Wan since 1990 as set out in paragraph 3 above. The proposed development at the site will comprise a new single-storey temple (GFA of 37.5m²) with an incense burner, offering tables, a staff room and a store room; and the preservation of the existing shrine (gross floor area of 1m²). The remaining portion of the site is mainly for necessary slope upgrading works, landscaping and open space. The applicant also proposes a set-back of at least 3m from the public footpath to minimise conflicts between the worshippers of the temple and hikers using the Leaping Dragon Walk. Given its relatively small scale, the proposed temple development is considered not incompatible with the character of the surrounding areas.
- 12.3 The site is on a gentle slope with some vegetation. According to the applicant, 13 trees and 2 undersized trees would be affected due to required slope upgrading works. Compensatory planting of 13 trees has been proposed. The relevant departments including H(GEO) of CEDD, CTP/UD&L and DAFC have no adverse comment on/no objection to the application. To address the concern on landscape issue ~~and infrastructure~~, relevant approval condition on the submission and implementation of a landscape proposal ~~and SIA as well as the associated mitigation measures are~~ *is* suggested at paragraph 13.2 below.
- 12.4 It is also anticipated that the proposed temple with a GFA of 37.5m² would not overstrain the capacity of existing and planned infrastructure, be susceptible to adverse environmental effects, or be a source of pollution. The relevant departments including TD, EPD, WSD and DSD have no adverse comment on/no objection to the application from their respective perspectives. To address the D of FS’ concern on fire safety, approval condition on the provision of fire safety measures is recommended at paragraph 13.2 below.
- 12.5 In view of the above, it is considered that the application generally complies with the criteria as set out in TPB PG-No. 10.

12.6 The public comments received generally support the application. Regarding the adverse public comments, the departmental comments in paragraph 10 and the planning assessment above are relevant.

13. Planning Department's Views

13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, PlanD has no objection to the application.

13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 21.12.2022, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the provision of fire service installations and water supplies for firefighting to the satisfaction of the Director of Fire Services or of the Town Planning Board;
and
- ~~(b) the submission of a sewerage impact assessment (SIA) to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;~~
- ~~(c) the implementation of the local sewerage upgrading or sewerage connection works as identified in the SIA under approval condition (b) to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and~~
- (b)** ~~(d)~~ the submission and implementation of a landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

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

13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

the proposed development is not in line with the planning intention of "GB" zone which is primarily for the conservation of the existing natural environment amid the built-up areas/at the urban fringe, to safeguard it from encroachment by urban type development, and to provide additional outlets for passive recreational activities. There is a general presumption against development within this zone. There is no strong planning justification in the submission to justify a departure from this planning intention.

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 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 clarification letter received on 24.10.2018
Appendix Ia	Supporting Planning Statement received on 24.10.2018
Appendix Ib	Further information dated 30.11.2018 providing missing pages of the submitted Planning Statement
Appendix II	Public comments
Appendix III	Recommended advisory clauses
Drawings A-1 to A-5	Layout plans and section plans
Drawings A-6 to A-8	Landscape plan, tree survey plan and compensatory tree plan
Drawing A-9	Artist's impression of the proposed redevelopment
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4 to A-7	Site photos

**PLANNING DEPARTMENT
DECEMBER 2018**