

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K14/759

- Applicant** : Antique Temple of Fook Tak Buddha Ltd. represented by Lanbase Surveyors Ltd.
- Site** : Government land to the southeast of the Tseung Kwan O (TKO) Tunnel Toll Plaza, Lam Tin, Kowloon
- Site Area** : About 50m²
- Lease** : Government Land
- Plan** : Draft Kwun Tong (South) Outline Zoning Plan (OZP) No. S/K14S/21
- Zoning** : “Green Belt” (“GB”)
- Application** : Proposed Religious Institution (Temple)

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for ‘Religious Institution (Temple)’ use. The Site falls within an area zoned “GB” on the draft Kwun Tong (South) OZP No. S/K14S/21 (**Plan A-1**). According to the Notes of the OZP for the “GB” zone, ‘Religious Institution’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board).
- 1.2 According to the applicant, the application is to facilitate relocation of an existing one-storey temple (i.e. Fook Tak Antique Temple) erected on the natural hill slope off Lin Tak Road near Hing Tin Estate, Lam Tin (**Plan A-1** and photo in **Plan A-3**), which is about 400m away from the Site. The existing temple was built on Government land in 1999¹. When the applicant subsequently applied for short-term tenancy (STT) for the temple, they were requested by the Government to ascertain the slope stability of the site. With regard to the potential slope safety concerns and the expenses for carrying out such assessment and the relevant stabilisation works, the applicant decided to relocate the temple. As such, the applicant submitted two applications (Nos. A/K14/403 and 422) for temple use at two sites (to the immediate west and east of the Site) at the subject

¹ The applicant claimed in the submission that the temple was built in 1958, but according to Lands Department (LandsD) records, the temple was built in 1999. When the temple was built, the site was zoned “Residential (Group A)” where planning permission is required for ‘religious institution’ use. The zoning of the site has remained unchanged since then and there is no record of planning approval granted for that temple.

“GB” zone, which were approved with conditions by the Metro Planning Committee (the Committee) on 28.6.2002 and 29.8.2003, respectively (**Drawing A-2** and **Plan A-1**). The former application had lapsed while the latter (the approved site) is still valid. The relocation has not been implemented over the years. Having considered that the Site is more desirable than the approved site from fung-shui and accessibility perspective, the applicant submits current application for relocation of the temple to the Site.

- 1.3 The Site is located on a piece of Government land with some trees on a knoll near a restricted road leading to ex-Ma Yau Tong (MYT) Central Landfill site with no direct and proper pedestrian access. The applicant proposes to construct, manage and maintain a footpath/staircase connecting the Site with the existing footpath about 5m away from the Site. The development parameters of the proposed temple, which is identical to that approved in similar application A/K14/422, are summarised below:

Site Area	about 50m ² (8m x 6.25m) [#]
Total Floor Area *	Not exceeding 22.5m ² [27.5m ² for worshipper assembly area at an open platform]
Site Coverage	45%
Plot Ratio (PR)	0.45
Building height	1 storey structure [3.5m above mean ground level]

[#] Exclude the proposed footpath/staircase serving the Site.

* No lavatory and caretaker station would be provided.

- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form attached to a letter from the applicant (**Appendix I**) received on 14.6.2018
 - (b) Planning statement received on 14.6.2018 (**Appendix Ia**)
 - (c) Letters from the applicant received on 19.7.2018 and 20.7.2018 providing clarifications and responses to the departmental comments (i.e. FI(a)) (**Appendix Ib**)
 - (d) Letter from the applicant received on 25.7.2018 providing responses to departmental comments (i.e. FI(b)) (**Appendix Ic**)
- 1.5 Location plans of the existing and the proposed temple as submitted by the applicant are at **Drawings A-1 to A-2**.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are set out in the Planning Statement at **Appendix Ia** and the clarifications and responses to departmental

comments at **Appendices Ib** and **Ic**, and summarized as follows:

- (a) The applicant is a charitable institution or trust of a public character and is exempted under tax under Section 88 of the Inland Revenue Ordinance (IRO), who provides religious services to the local neighbourhood. With regard to the potential slope safety concern, it is necessary to relocate the existing temple.
- (b) As compared with the approved site, the south-westerly orientation of the Site is more desirable from a feng-shui perspective which is of vital importance to the health and luck of the worshippers. Also, the Site is closer to the existing footpath with better accessibility and this is important because most of their visitors are elderly. No columbarium would be provided in the proposed temple.
- (c) The daily visitor/worshipper is about 10 persons on normal days and up to 50 persons with festive events. As it mainly serves the neighbouring residents who live within walking distance from the proposed temple, the proposed temple would not generate additional traffic. Besides, owing to the small scale of development and that there is no vehicular access leading to the Site, no parking space or loading/unloading space would be provided. Apart from the proposed access footpath, portable toilet and fire service installations would be provided.
- (d) The Site is a piece of vacant land and is concealed from the view by the knoll and existing planting; thus the proposed temple would not pose any adverse visual impact on the “GB” character of the locality. Six trees would be affected and appropriate compensatory planting proposal would be identified at later stage to preserve the existing vegetation and landscape of the Site. Therefore, the proposed temple would not degrade the existing environmental conditions. The applicant agrees to impose such requirement as an approval condition.
- (e) The Site has no direct sightline to TKO Tunnel Toll Plaza, and the proposed temple is facing the restricted road leading to ex-MYT Central Landfill site. Suitable furnace will be used to minimize the potential nuisance to nearby residents, and the relevant guidelines issued by the Environmental Protection Department (EPD) will be strictly followed. Garbage bins and recycle bins will be provided, and daily waste collection will be arranged.
- (f) Landfill Gas Hazard Assessment (LFGHA) will be conducted prior to commencement of works. Protection measures stipulated in the assessment will be implemented at the expense of the applicant. The applicant accepts to include this as an approval condition.
- (g) Upon completion of the new temple at the Site, the existing one will be demolished and the existing STT covering the approved site² will be returned back to the Government. Should this application be approved, the applicant will not make any application for further relocation of the proposed temple at other sites.

² The approved site is on Government land and a STT for the purpose of a non-profit making temple was executed in 2012. As advised by LandsD, policy support for continuation of the STT from Secretary for Home Affairs was granted as discussed in para. 9.1.7(b) below, and the STT is still valid.

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

As the Site involves government land only, the “owner’s consent/notification” 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.31A) are not applicable to the application.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 10 (TPB PG-No. 10) for ‘Application for Development within “GB” Zone under Section 16 of the Town Planning Ordinance’ is relevant to the application. The relevant assessment criteria are summarized as follows:

- (a) There is a general presumption against development in the “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) Applications for new development in “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning ground. The scale and intensity of the proposed development including the PR, site coverage and building height should be compatible with the character of surrounding areas.
- (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. Tree preservation and landscaping proposals should be provided.
- (f) The proposed development should not overstrain the capacity of the 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. Previous Application

There is no previous application in respect of the Site.

6. Similar Applications

- 6.1 There are four similar applications for temple use in “GB” zone in the area, which were all approved.
- 6.2 As mentioned in para. 1.2 above, to facilitate the relocation of the existing temple near Lin Tak Road, the applicant submitted two applications (Nos. A/K14/403 and 422) for temple use at two sites within the subject “GB” zone (**Plan A-2** and **Drawing A-2**). Subsequent to the approval of the former application on 28.6.2002, it was revealed that the construction works at that site would involve cut slop, thus incur higher construction works. As such, the latter application was submitted by the applicant at an adjacent site and was approved with conditions by the Committee on 19.9.2003 mainly on the consideration that the proposed temple is small in scale and would unlikely have any adverse environmental, traffic and drainage impact on the surrounding areas. The building plan for the proposed temple was approved by the Building Authority (BA) on 11.10.2006, a STT for a non-profit making temple was executed on 12.4.2012 and a public footpath/staircase serving this site as required under the STT has been constructed by the applicant. Notwithstanding the above, the proposed temple has not been constructed. The current application is identical to Application No. A/K14/422 in terms of site area (about 50m²), floor area (about 22.5m²) and building height (3.5m).
- 6.3 The remaining two similar applications (Nos. A/K14/40 and 388) were approved with conditions by the Board/the Committee on 22.3.1990 and 17.8.2001 respectively for reprovisioning of temple which were affected by public housing developments in the area (**Plan A-1**).

7. The Site and Its Surrounding Areas (**Drawings A-1** and **A-2**, **Plans A-1** and **A-2** and site photos on **Plans A-4** to **A-5**)

- 7.1 The Site is:
- (a) a piece of vacant Government land close to an existing footpath along the restricted road leading to the ex-MYT Landfill Site; and
 - (b) located along a gentle slope of a knoll with natural vegetation, including grasses and trees.
- 7.2 The surrounding areas have the following characteristics (**Plan A-2**):
- (a) to the northwest is the TKO Tunnel Toll Plaza;
 - (b) to the south is the ex-MYT Landfill Site, zoned “Open Space” and “GB”,

where restoration works for recreational after-use is in progress ; and

- (c) to the further southwest are high-density residential development, namely Hong Wah Court and Hing Tin Estate.

8. Planning Intention

The planning intention of “GB” zone 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.

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/Kowloon East, LandsD (DLO/KE, LandsD):

- (a) No objection to the application.
- (b) The Site falls on the unleased and unallocated Government Land. Should the Board decide to approve the application, the applicant is required to apply to his office for a new STT to effect the proposal. However, there is no guarantee at this stage that the STT would be approved and each application would be considered on its own merits having regard to the prevailing land policy. If the application for a STT is approved by the LandsD in the capacity as landlord at his sole discretion, it will be subject to those terms and conditions including the payment of rent as imposed under the prevailing policy of the LandsD.

Building Matters

- 9.1.2 Comments of the Chief Building Surveyor/Kowloon, Buildings Department (CBS/K, BD):

- (a) No objection in-principle to the application.
- (b) All building works are subject to the compliance with the Buildings Ordinance (BO).
- (c) The Site does not abut on a specified street of not less than 4.5m wide in accordance with Building (Planning) Regulation (B(P)R) 18A, the height of building, the maximum site coverage and plot

ratio permitted for new building works, if any, shall be determined by the BBA under B(P)R 19(3), and, pursuant to B(P)R 5, the BA may require the provision of an access road to the site.

- (d) The Site shall be provided with emergency vehicular access (EVA) in accordance with B(P)R 41D.
- (e) Detailed comments under the BO will be provided at the building plan submission stage.

Fire Safety

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

- (a) He has no objection in principle to the planning application subject to fire service installations and water supplies for firefighting being provided to the satisfaction of his Department. Detailed fire safety requirement will be formulated upon receipt of formal submission of general building plans.
- (b) The applicant should observe that the arrangement of EVA shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 which is administered by the BD.

Environment

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

- (a) He has no further comments after reviewing the FI(a) which demonstrates that insurmountable environmental impacts and sewerage impact associated with the proposed temple are not anticipated on the following aspects:
 - on sewerage, the applicant confirms that portable toilets will be provided to handle the sewage generated due to small scale of the proposed temple and limited visitors. Adverse sewerage impact arising from the proposed temple is not anticipated.
 - on noise, the applicant demonstrates that there is no direct line of sight from the Site to TKO Tunnel Toll Plaza and the proposed temple will have south-westerly orientation facing the restricted road. Adverse noise impact on the proposed temple is not anticipated.
 - on air quality, the applicant confirms that they will provide suitable furnace for burning joss paper, and they will strictly follow the “Guidelines on Air Pollution Control for Paper Artifacts Burning at Funeral Parlours and Other Places of Worship” and “Guidelines on Air Pollution Control for Joss Paper Burning at Chinese Temples, Crematoria and Similar

Places” to minimize the potential nuisances to nearby residents;

- on waste management and land contamination, the applicant confirms that garbage bins and recycle bins will be provided for the proposed temple with daily waste collection arranged. They also confirm that the Site has always been a natural slope, thus there is no land contamination of the Site.
 - on landfill gas hazard, the Site falls within 250m consultation zone of the ex-MYT Central Landfill site and a LFGHA is required. The applicant confirms that LFCHA will be conducted before commencement of works. The protection measures stipulated in the LFGHA approved by DEP will be implemented and confirmed by a competent professional person at the applicant’s own expense.
- (b) In view of the above, DEP has no objection to the application from the environmental perspective and considers that an approval condition requiring the applicant to submit a LFGHA and implement the identified protection measures should be imposed.

Urban Design and Landscape

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

Urban Design

- (a) The Site occupies an area of about 50m² within a “GB” zone located to the northeast of Lin Tak Road. Given the application background, site context and relatively small scale of the proposed development, he has no adverse comment on the proposal from urban design and visual impact points of view.

Landscape

- (b) With reference to the aerial photo of 2015, the Site is located in an area of urban fringe landscape character dominated by plantation / semi-natural woodland. A heavy trafficked road leading to TKO Tunnel Toll Plaza and a restricted road is located nearby the site. According to site photos at **Plans A-3** and **A-4**, the Site appears to be located at a gentle slope well vegetated with tree group of various sizes and patches of grass / ground cover.
- (c) According to Part 8 (Impacts of Development proposal) of the application form provided by the applicant, the development would involve excavation/site formation and felling of trees. However, it is noted with concern that extent of excavation/site formation and broad-brush vegetation/tree survey and tree preservation measures are not provided in this submission. Due to construction works of the proposed temple and associated site formation/slope works, the

existing trees and natural site topography at the site would likely be affected. As such, adverse impact to existing landscape resources is anticipated. It is also noted that landscape proposal with any amenity/compensatory tree planting as well as layout/disposition of the proposed private open space are not indicated in this submission. Corresponding reinstatement treatment or practical mitigation measures for affected vegetation is not indicated. The overall impact to existing vegetation (including trees) could not be fully ascertained.

- (d) Based on the above, he has some reservations on the application from landscape planning point of view. He recommends imposing an approval condition on landscape proposal, should the application be approved.

Traffic

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

After considering FI(b), he has no further comments on the application, but suggests that the applicant should implement appropriate management measures in monitoring the number of visitors to the proposed temple.

Others

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

- (a) The applicant is a charitable organization under section 88 of the IRO. Having regard to this and the fact that it is also a bona fide religious organization, and the proposed facilities are for places of worship and ancillary use, he has no objection to the application.
- (b) He has provided policy support for the continuation of STT of the approved site. The applicant confirms in FI(a) that the existing STT site will be returned back to the Government and the existing temple will be demolished upon the completion of the new temple. If the applicant later seeks land grant by way of STT at concessionary rent, he will consider the case again along prevailing policy and established procedures.

9.1.8 Comments of the Chief Highway Engineer/Kowloon, Highways Department (CHE/K, HyD):

- (a) No in-principle objection to the application.
- (b) It is noted that a footpath would be provided to connect the Site to the existing steps to the east. HyD is not the maintenance party for the existing steps or the proposed footpath.

9.1.9 Comments of the Director of Electrical and Mechanical Services:

- (a) No comment on the application from electricity supply safety aspect.
- (b) In the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. The applicant should also be reminded to observe the Electricity Supply Lines (Protection) Regulation (the Regulation) and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

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

- (a) Chief Engineer/Construction, Water Supplies Department (WSD);
- (b) Mainland South Division, Drainage Services Department (DSD);
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (d) Director of Agriculture, Fisheries and Conservation (DAFC);
- (e) District Officer (Kwun Tong), Home Affairs Department;
- (f) Commissioner of Police; and
- (g) Director of Food and Environmental Hygiene.

10. Public Comments Received During the Statutory Publication Period

On 22.6.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 13.7.2018, no public comment was received.

11. Planning Considerations and Assessments

11.1 The application is to seek planning permission for ‘Religious Institution (Temple)’ use at the Site within the “GB” zone for relocation of an existing temple that serves the local residential neighbourhood. The planning intention of “GB” zone 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, the development within the “GB” zone should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape or cause any adverse visual impact on the surrounding environment; and should not be susceptible to adverse

environmental effects or be the source of pollution.

- 11.2 The scale of the proposed temple is small with a site area of 50m², out of which only 22.5 m² would be built up for a one-storey structure with 3.5m in height. Given its nature and scale, the temple is considered not incompatible with the surrounding land use mainly comprising natural vegetation. According to the applicant, six trees would be affected and tree removal and compensation proposal would be submitted before the commencement of works. CTP/UD&L, PlanD advised that adverse impact to existing landscape resources is anticipated due to construction works of the proposed temple and associated site formation/slope works. As landscape proposal and layout/disposition of the proposed development are not indicated in this submission, the overall impact to existing vegetation (including trees) could not be fully ascertained and therefore he has some reservations on the application. Given the approval for providing the proposed temple at an adjacent site in the same “GB” zone and the small scale of the development, it is considered that sympathetic consideration could be given to the current application. To address the concern on landscape issue, an approval condition on the submission and implementation of a landscape proposal is suggested at paragraph 12.2 below.
- 11.3 According to the applicant, the temple would only serve the local community (with worshippers of about 10 on a normal day and up to about 50 on festive days). Since the development scale is small, it is anticipated that the temple would not cause any adverse impacts on traffic, environment, drainage and planned infrastructure of the surrounding area. All concerned departments including GEO of CEDD, TD, EPD, DSD and WSD have no adverse comment on/no objection to the application from their respective perspectives. Thus, it is considered that the application generally complies with the criteria as set out in TPB PG-No. 10 in that the proposed development would not overstrain the capacity of existing and planned infrastructure, and would not adversely affect slope stability. Based on the comments from D of FS and DEP, approval conditions concerning the provision of fire safety measures and LFGHA are recommended at paragraph 12.2 below.
- 11.4 All four similar applications for temple in the area, including two involving sites in close proximity to the Site within the same “GB” zone, were approved, taking into account that the proposed temple is for reprovisioning of existing temple, the development scale is small and no adverse environment, traffic and drainage impacts on the surrounding areas. The approval of the application is consistent with the previous decisions of the Committee on similar applications.
- 11.5 The applicant has provided justification for not pursuing the approved site under the approved Application No. A/K14/422, which is located to the immediate east of the Site (**Plan A-2**) mainly on ‘fung shui’ and accessibility grounds. It needs to stress that fung shui should not be taken as a relevant planning consideration on the application. Nonetheless, the proposed temple at the Site is considered acceptable based on the planning assessments set out above.
- 11.6 No public comment was received on the application.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 3.8.2022, 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 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;
- (b) the submission and implementation of a landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board; and
- (c) the submission of a Landfill Gas Hazard Assessment and the implementation of the protective measures identified therein for the proposed development to the satisfaction of the Director of Environmental Protection or of the Town Planning Board.

Advisory clauses

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

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Member's 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/assessment in the submission to justify a departure from this planning intention, nor demonstrate that the proposed development would not result in adverse landscape impacts on the surrounding areas.

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 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.

13.3 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.

14. Attachments

Appendix I	Application form attached to a letter from the applicant received on 14.6.2018
Appendix Ia	Planning statement received on 14.6.2018
Appendix Ib	Letters from the applicant received on 19.7.2018 and 20.7.2018 providing clarifications and responses to the departmental comments
Appendix Ic	Letter from the applicant received on 25.7.2018 providing responses to the departmental comments
Appendix II	Recommended advisory clauses
Drawing A-1	Location plan of the application site
Drawing A-2	Site plan of the application site
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3 to A-5	Site Photos

**PLANNING DEPARTMENT
AUGUST 2018**