

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/K8/48**

- Applicant** : Pat Sin Temple Ltd.
- Site** : Government Land to the northwest of Lion Rock Park, Wong Tai Sin, Kowloon (Pak Sin Temple)
- Site Area** : About 105m<sup>2</sup>
- Lease** : Government Land
- Plan** : Approved Wang Tau Hom and Tung Tau Outline Zoning Plan (OZP) No. S/K8/21
- Zoning** : “Green Belt” (“GB”)
- Application** : 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 approved Wang Tau Hom and Tung Tau OZP No. S/K8/21 (**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 The application is to regularise the temple, known as Pak Sin Temple (八仙廟), currently in operation at the Site. According to the applicant, the temple is operated by its builder and volunteers, for worship by residents from Lok Fu, Chuk Yuen and Wang Tau Hom areas and providing rest area for hikers and morning walkers. No selling of food and other items would be involved at the temple. There are six single-storey structures for a joss paper burner, shrines, a covered rest area and ancillary storages within the Site. According to the applicant, all structures would be retained without alteration. The major development parameters of the temple are as follows (**Drawing A-1**):

|                         |                             |
|-------------------------|-----------------------------|
| <b>Site Area</b>        | 105m <sup>2</sup> (about)   |
| <b>Total Floor Area</b> | 45.36m <sup>2</sup> (about) |
| <b>Site Coverage</b>    | 43.2%                       |
| <b>Plot Ratio</b>       | 0.432                       |

|                          |  |
|--------------------------|--|
| <b>No. of Structures</b> | 6<br>(i) Joss paper burner<br>(ii) Shrine of The Earth God (土地)<br>(iii) Shrine of God of Heaven and Goddess of Earth (天地父母)<br>(iv) Shrine of Kwun Yum (觀音神龕)<br>(v) Shrine of Buddha (佛祖神龕)<br>(vi) Covered rest area<br>- Shrine of The Eight Immortals (八仙神龕)<br>- Storage room<br>- Storage cabinet |
|--------------------------|--|

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

- (a) Application form received on 16.4.2018 **(Appendix I)**
- (b) Further information vide email dated 16.6.2018 providing clarifications on site area, total floor area, site coverage, building height and plot ratio with submission of a revised layout plan and replacement pages of the application form **(Appendix Ia)**
- (c) Further information vide email dated 27.6.2018 providing clarifications on the status of Pat Sin Temple Limited (the applicant) **(Appendix Ib)**

1.4 Layout plan of the temple is shown on **Drawing A-1**.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in part 9 of **Appendix I** and **Appendix Ib**. They are summarized as follows:

- 2.1 The temple was built by the squatter residents in Lion Rock Upper Village (獅子山上村) for worship purpose in 1970s and 1980s. In 1992, all squatters in the area were cleared but the temple was retained. The temple has continued its operation for worship by residents from Lok Fu, Chuk Yuen and Wang Tau Hom areas and providing rest area for hikers and morning walkers.
- 2.2 In 1995, the Lands Department (LandsD) announced that the temple would need to be removed on the ground of occupation of Government land. Yet, due to the objections from its followers, residents, hikers and morning walkers and the mediation of Wong Tai Sin District Council (WTSDC), the temple was retained.
- 2.3 The Pat Sin Temple Limited was established in 1999 and has been registered as a non-profit-making charitable organisation since 2014.
- 2.4 The temple, together with the adjacent pavilion built by the WTSDC and the legacies of squatters in the area, formed an important attraction.

- 2.5 Over the years, the applicant has been applying to LandsD for using the Site for the applied use. Yet, LandsD replied that since the Site was located within the “GB” zone, prior planning permission should be obtained before processing his application.
- 2.6 The temple has no adverse environmental impact and no alteration work to the existing structures is proposed.

### **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.
- (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 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) 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 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.
- (f) 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 Application**

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

## 7. **The Site and Its Surrounding Areas** (Drawing A-1, Plans A-1 to A-3 and site photos on Plans A-4 to A-6)

7.1 The Site:

- (a) is a piece of Government land located to the northwest of Lion Rock Park and is currently used as a temple i.e. Pak Sin Temple;
- (b) is accessible from a walking trail connecting to Lion Rock Park; and
- (c) is surrounded by vegetation and within the middle part of a large “GB” zone.

7.2 The surrounding areas have the following characteristics:

- (a) the surroundings are natural hill slopes covered by vegetation;
- (b) ruins of previous squatters and a pavilion are located to the southwest and immediate southeast respectively (**Plans A-2 and A-7**); and
- (c) the Lion Rock Park and the Lion Rock Country Park are approximately 300m to the southeast and 200m to the north respectively.

## 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, Lands Department (DLO/KE, LandsD):

The Site is located within unleased and unallocated Government land. The existing occupation and buildings/structures on site are unauthorized. If the planning application is approved by the Board, the applicant/operator has to apply to the LandsD for a short term tenancy. However, there is no guarantee that such application will be approved; and if approved, it will be subject to such terms and conditions (including but not limited to the payment of rent) as may be considered appropriate by the LandsD acting in the capacity of a private landlord.

**Building Matters**

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

- (a) No in-principle objection to the application.
- (b) All existing building works erected on unleased government land do not come under the control of the Buildings Ordinance (BO), and are not unauthorised for the purpose of the BO.
- (c) It is noted that the applicant has applied for a land grant/tenancy agreement from LandsD for the Site. If a land grant/tenancy agreement is given to the applicant, prior approval and consent from the Building Authority (BA) should be obtained before any new building works are carried out on the Site. Otherwise they are Unauthorized Building Works (UBW). Authorized Person (AP) must be appointed to coordinate all new building works in accordance with the BO.
- (d) The Site does not abut on a specified street of not less than 4.5m wide in accordance with the Building (Planning) Regulation (B(P)R) 19A. The height of building, the maximum site coverage and plot ratio permitted for new building works, if any, shall be determined by the BA 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.

**Fire Safety**

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

- (a) Provided that there is no change in the applied use and site area, he has no in-principle objection to the application subject to fire service installations for firefighting being provided to the satisfaction of his 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 Emergency Vehicular Access (EVA) as stipulated in Section 6, part D of the Code of Practice for Fire Safety in Building 2011 which is administered by the BD.
- (c) With regard to non-provision of EVA, advice may be sought from the BA. Upon receiving the referral from the BA with detailed information and layout plan of the building/structures, his department will offer their comment to the BA for consideration.

### **Environment**

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

- (a) He notes that the Site is currently used for the applied use (Pak Sin Temple) without valid planning permission and is not covered by any previous application, and there will not be any change of existing structures associated with this application. He notes that the Site is located at about 360m from the nearest residential blocks (Tsui Chuk Garden) (**Plan A-1**).
- (b) Given such a long separation distance between the Site and the residential blocks, emission impact arising from the subject temple to the nearby residents is anticipated to be minor and there is no complaint record regarding the subject use. Hence, he has no adverse comment on the application from the environmental perspective.
- (c) Notwithstanding the above, in case of future replacement/upgrade of the existing joss paper burner, the applicant/operator should make reference to 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) on the best available technology devices of the new type of joss paper furnace, which are essential for effective emission control. E-copy of the guidelines is available on Environmental Protection Department's website at [https://www.epd.gov.hk/epd/sites/default/files/epd/tc\\_chi/complian\\_ass/others/files/EPD\\_Joss\\_Paper\\_TC.pdf](https://www.epd.gov.hk/epd/sites/default/files/epd/tc_chi/complian_ass/others/files/EPD_Joss_Paper_TC.pdf).

### **Water Supply**

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

- (a) No objection to the application.

- (b) The Site is outside any existing and proposed fresh water and salt water supply zones. No fresh and salt water supply would be available at the Site.

### **Urban Design and Landscape**

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

- (a) It is noted that the proposal is for regularisation of the existing development (i.e. temple) at the Site. The Site, in an area of approximately 110m<sup>2</sup>, is located at the foothills of the Lion Rock within an extensive area of “GB” zone. Based on the photos provided by the applicant, the existing development contains a number of small-scale structures and the Site is surrounded by vegetation.
- (b) As the development is not considered incongruent to the context and character of the surrounding area, there is no adverse comment on the proposal from urban design and landscape points of view.
- (c) Considering that the Site is small in area and with very limited outdoor space, meaningful landscaping / planting treatment appears not practicable. Hence, should the application be approved by the Board, approval condition for submission and implementation of landscape approval is not recommended.

### **Others**

9.1.7 Comments of the Secretary for Home Affairs (SHA):

- (a) The applicant is a charitable organization under section 88 of the Inland Revenue Ordinance. Having regard to this and the fact that it is a bona fide religious organization, and the proposed facilities are for place of worship and ancillary use, he has no objection to the planning application.
- (b) If the applicant later seeks land grant at concessionary premium, he will consider the case again along prevailing policy and established procedures.

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

- (a) Chief Highway Engineer/Kowloon, Highways Department;
- (b) Chief Engineer/Mainland South, Drainage Services Department;
- (c) Director of Agriculture, Fisheries and Conservation;
- (d) Director of Food and Environmental Hygiene;
- (e) Commissioner for Transport;
- (f) Commissioner of Police; and
- (g) District Officer (Wong Tai Sin), Home Affairs Department

## **10. Public Comments Received During the Statutory Publication Period**

On 18.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 8.6.2018, a total of 7 public comments supporting the application (**Appendix II**) were received from individuals, a Wong Tai Sin District Council member and Lion Rock Hikers and Residents Concern Group (獅子山行山人仕及居民關注組). The commenters support the application mainly on the ground that the temple has been existing for decades providing worship places for its followers and rest area for hikers; the temple is considered a built heritage<sup>1</sup> and should merit conservation; the application would provide an opportunity to impose restriction on development parameters so as to avoid the Site from being exploited.

## **11. Planning Considerations and Assessments**

11.1 The application is to seek planning permission to regularize an existing temple at the Site within the “GB” zone. 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. The existing temple is of small scale with a total floor area of only about 45.36m<sup>2</sup> with single-storey structures for shrines, joss paper burner and rest area. According to the applicant, the temple serves the locals and hikers. The proposal does not involve any expansion or alteration of the existing structures nor felling of any tree. Given its nature and scale, the temple is considered not incompatible with the surrounding land uses mainly comprising natural vegetation, a pavilion and some ruins. As such, sympathetic consideration may be given to the application.

11.2 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. No tree felling is proposed in the application. CTP/UD&L, PlanD has no adverse comment from urban design and landscape points of view as the development is not incongruent to the context and character of the surrounding areas. Regarding the joss paper burner at the Site, DEP has no adverse comment and anticipates that the emission impact is minor given the long separation distance between the temple and the nearest residential developments (i.e. about 360m from Tsui Chuk Garden). Other concerned Government departments including TD, Police, DSD, WSD etc. have no comment/no objection from their concerned aspects. As such, the application is considered generally in line with TPB PG-No. 10 on these aspects. Based on the comments from D of FS, an approval condition concerning the provision of fire safety measures is recommended at paragraph 12.2 below.

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<sup>1</sup> The temple is not a graded or proposed graded historic building.



- 11.3 All 7 public comments received support the application mainly on the ground of providing place of worship for its followers and resting area for hikers, and offering an opportunity for planning control. The planning considerations and assessments as mentioned in the above paragraphs are relevant.

## **12. Planning Department's Views**

- 12.1 Based on the assessments made in paragraph 11 and having taking into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the application.

- 12.2 Should the Committee decide to approve the application, no time clause on commencement is proposed as the 'Religious Institution (Temple)' use under application has been in operation at the Site. The following condition of approval and advisory clauses are suggested for Members' reference:

### Approval Condition

- (a) the provision of fire service installations for firefighting to the satisfaction of the Director of Fire Services or of the Town Planning Board.

### Advisory Clauses

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

- 12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:
- (a) 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; and
- (b) the approval of the application would set an undesirable precedent for similar applications within the "GB" zone. The cumulative impact of approving such applications would result in a general degradation of the environment of the area.

### **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.
- 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**

|                         |   |
|-------------------------|---|
| <b>Appendix I</b>       | Application form received on 9.5.2018                             |
| <b>Appendix Ia</b>      | Further information from the applicant vide email dated 16.6.2018 |
| <b>Appendix Ib</b>      | Further information from the applicant vide email dated 27.6.2018 |
| <b>Appendix II</b>      | Public comments received  |
| <b>Appendix III</b>     | Recommended advisory clauses                                      |
| <b>Drawing A-1</b>      | Layout plan of the temple   |
| <b>Plan A-1</b>         | Location Plan   |
| <b>Plan A-2</b>         | Site Plan   |
| <b>Plan A-3</b>         | Aerial Photo  |
| <b>Plans A-4 to A-7</b> | Site Photos   |

**PLANNING DEPARTMENT  
JULY 2018**