

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

**APPLICATION NO. A/TP/652**

- Applicant** : Siu Ling Shan (Ling Hin Fat Yuen) Buddhist Charitable Foundation Limited represented by Chuck Ng Architects Limited
- Site** : Lot 1171 (Part) in D.D. 6 and adjoining Government Land, Shek Lin Road, Shek Kwu Lung, Tai Po, New Territories
- Site Area** : About 2,461m<sup>2</sup> (including Government land of about 650.2m<sup>2</sup>)
- Lease** : New Grant Lot No. TP5811 for agricultural use as varied by Building Licence No. 737/52 dated 31.3.1952
- Plan** : Approved Tai Po Outline Zoning Plan (OZP) No. S/TP/28 (Draft Tai Po OZP No. S/TP/27 at the time of submission)
- Zoning** : “Green Belt” (“GB”) (at the time of submission and remains unchanged on the extant OZP No. S/TP/28)
- Application** : Religious Institution and Columbarium with Ancillary Quarters

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a religious institution and columbarium with ancillary quarters at the application site (the Site). The Site falls within an area zoned “GB” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Religious Institution’ and ‘Columbarium (within a Religious Institution or extension of existing Columbarium only)’ uses in the “GB” zone requiring planning permission from the Town Planning Board (the Board). The Site is currently occupied by religious institution and columbarium uses with ancillary quarters without planning permission.
- 1.2 The religious institution and columbarium uses are under the name of Siu Ling Shan (Ling Hin Fat Yuen) (小靈山(靈顯法院)) (**Drawing A-1**). There are a total of 27 one/two-storey existing building structures on the Site with a total GFA of about 970m<sup>2</sup> (**Drawing A-2**). Under the application, there will be no alteration/addition works to structures no. 1 to 16 and 20 to 27. According to the applicant, there are a total of 757 columbarium niches, of which 456 niches are currently accommodated in structure no. 9 (地藏殿) and 301 niches in structure no. 16 (壁龕) (**Drawings A-3 and A-4**). In addition, a total of 1 782 ancestral cards are also housed on the ground floor of structure no. 9. Ancillary quarters comprises six bedrooms with a GFA of about 166.4m<sup>2</sup> are provided on 1/F of structures no. 6 and 7.

- 1.3 The applicant claims that the columbarium niches and the ancestral cards are for the deceased monks, nuns and followers of the temple. Some of them have been sold/allotted. A detailed account of the location and current status of the columbarium niches and ancestral cards is as follows:

<b>Location and Current Status of Columbarium</b>	<b>Single-Urn Niche</b>	<b>Double-Urn Niche</b>	<b>Total</b>
Total No. of Niches	701	56	757
- Structure 9 (地藏殿)	- 400	- 56	- 456
- Structure 16 (壁龕)	- 301	- 0	- 301
No. of Sold/Allotted Niches	286	13	299
- Occupied Niches	- 169	- 5	- 174
- Not Yet Occupied Niches	- 117	- 8	- 125
No. of Niches Available for Sale/Allotment	415	43	458
<b>Total No. of Ancestral Cards in Structure 9 (地藏殿)</b>			
- Sold/Allotted	NA	NA	- 877
- Available for Sale/Allotment			- 905

- 1.4 In addition to the religious institution and columbarium uses with ancillary quarters within the existing structures under this application, the application also involves the proposed conversion of two existing structures currently used as storage (structures no. 17 and 18) and an existing porch (structure no. 19) into a permanent toilet building with underground septic tank to serve the visitors in order to minimise any adverse sewerage impact. The layout of the proposed toilet building is shown on **Drawing A-5**. According to the applicant, upon completion of the new toilet building, the resultant total GFA of all the structures on site will be about 943.6m<sup>2</sup> with a total site coverage of about 29.6%.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form and attachments received on 19.6.2018 **(Appendix I)**
  - (b) Supplementary information (Environmental Assessment Report, Sewerage Impact Assessment Report and Geotechnical Planning Review Report (GPRR)) received on 21.6.2018 **(Appendix Ia)**
  - (c) Further information (FI) received on 20.8.2018 providing responses to departmental comments **(Appendix Ib)**
  - (d) FI received on 19.9.2018 providing responses to departmental comments **(Appendix Ic)**
  - (e) FI received on 20.11.2018 providing responses to departmental comments and a Traffic Impact Assessment (TIA) Report **(Appendix Id)**
  - (f) FI received on 18.3.2019 providing responses to departmental comments, a management plan for the **(Appendix Ie)**

- operation of the Columbarium and a revised TIA Report
- (g) FI received on 2.5.2019 providing responses to departmental comments and a revised TIA Report (Appendix If)
  - (h) FI received on 3.5.2019 providing clarifications for the application (Appendix Ig)
  - (i) FI received on 15.5.2019 providing a layout plan for the proposed conversion works (Appendix Ih)
  - (j) FI received on 28.5.2019 providing responses to departmental comments and a revised TIA Report (Appendix Ii)
  - (k) FI received on 3.6.2019 providing clarifications for the application (Appendix Ij)
  - (l) FI received on 26.6.2019 providing responses to departmental comments and clarifications for the application (Appendix Ik)
  - (m) FI received on 8.7.2019 providing responses to departmental comments (Appendix Il)
- 1.6 On 17.8.2018, 19.10.2018 and 18.1.2019, the Rural and New Town Planning Committee (the Committee) of the Board agreed to the applicant's request to defer making a decision on the application each for two months to allow time for the applicant to prepare FI in support of the application. The latest FI was received on 8.7.2019 and the application is scheduled for consideration by the Committee on 19.7.2019.

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

The justifications put forth by the applicant in support of the application are detailed in the application and further information at **Appendices I and Ia to II**. They can be summarized as follows:

- (a) Siu Ling Shan (Ling Hin Fat Yuen) is one of the historical Buddhist monasteries in the Tai Po area. It is well-recognised in the community and registered under the Chinese Temples Committee;
- (b) the monastery was established in 1952 and the current structures/uses at the Site have been in existence since then. The uses will remain the same in the future;
- (c) when the monastery was first founded, the applicant had no knowledge that the columbarium and religious uses at the Site are not in compliance with the Government policies/regulations;
- (d) the monastery is run by a non-profit-making religious organization. The buildings on Site are repaired and maintained from time to time with funds raised from the followers of the temple;
- (e) the revised TIA Report (**Appendix Ii**) and supplementary information (**Appendix Il**) submitted have demonstrated that the applied uses will not cause any adverse traffic impacts on the surrounding areas. As mentioned in the revised TIA Report, there

will be no parking facilities provided within the Site, hence it is only accessible by taxi or on foot via an access road leading from Shek Lin Road from the southwest of the Site. On non-festival days, visitors can only visit by appointment as staff will not usually be stationed at the Site. On festival days, visitors will be encouraged to access the Site using public transport/taxi and get off at the proposed Pick-up/Drop-off Area at the end of the access road leading to the Site off Shek Lin Road (**Drawing A-6**). Temporary traffic arrangement such as temporary setting up of traffic signs and lights at the junction of Shek Lin Road and the access road (**Drawing A-7**) and a staff member will be deployed at the proposed Pick-up/Drop-off Area to ensure only pick-up and drop-off are allowed at the area concerned with no parking/stationing of vehicles affecting the local traffic condition during the festival days;

- (f) the proposed conversion works for a new toilet building with underground septic tank/ soakaway system on the Site will serve the visitors in order to minimise any adverse sewerage impact. Joss paper burning is not allowed within the Site and only one bundle of joss sticks is allowed for burning for one family group per visit. A maximum number of 60 persons will be present on the Site at any time. Moreover, there will be no permanent residents, except for three to six monks/nuns staying for up to a week occasionally, and only two staff members of the temple will be stationed at the Site during daytime; and
- (g) the Environmental Assessment Report, Sewerage Impact Assessment Report, GPRR (**Appendix Ia**) and other supplementary information submitted have demonstrated that the applied uses will not cause any adverse environmental, sewerage and geotechnical impacts on the surrounding areas.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection. As for the Government land, the “owner’s consent/notification” requirements 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 this application. The relevant assessment criteria include:

- (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 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) the design and layout of any proposed development should be compatible with the surrounding areas. 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;
- (d) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, road and water supply. It should not adversely affect drainage or aggravate flooding in the area;
- (e) the proposed development should not overstrain the overall provision of Government, Institution or Community facilities in the general area;
- (f) 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; and
- (g) any proposed development on a slope or hillside should not adversely affect slope stability.

## 5. **Background**

### The Kam Shan/Shek Kwu Lung Cluster (Plan A-1)

- 5.1 The Site falls within an area zoned “GB” on the OZP and was covered by the statutory plan since the first statutory plan covering Tai Po area was gazetted on 12.12.1980. Since then, both ‘Religious Institution’ and ‘Columbarium’ uses have not been permitted as of right at the Site under the statutory plan. Including the subject columbarium, there are six known private columbaria located in the vicinity of Kam Shan/Shek Kwu Lung area, all of which are only accessible through Kam Shan Road. These columbaria fall either within the same “GB” zone, “Government, Institution or Community” (“G/IC”) zone, “Open Space” zone or “Village Type Development” zone around Kam Shan and Shek Kwu Lung villages.
- 5.2 Apart from the subject columbarium under the current application, there are two other planning applications received from two of the known private columbaria in the Kam Shan/Shek Kwu Lung cluster area. Application No. A/TP/657 involves a columbarium within Poh Yea Ching Shea (般若精舍) at Mui Shue Hang Village providing a total of about 5 400 niches, whereas Application No. Y/TP/27 is a rezoning application for a columbarium at Kam Shan Road (Cheung Ha Tsing Shea 祥霞精舍) providing a total of about 1 700 niches. These two planning applications will be submitted to the Committee for consideration in due course.

## 6. **Previous Application**

There is no previous application at the Site.

## **7. Similar Application**

There is no similar application for the same use within the same “GB” zone .

## **8. The Site and its Surrounding Areas (Plans A-1, A-2, and photos on Plan A-3, A-4a to A-4h)**

8.1 The Site is:

- (a) currently occupied by 27 building structures for use as a religious institution and columbarium with ancillary quarters without planning permission; and
- (b) accessible by vehicles from Shek Lin Road via an access road to the southwest of the Site. Shek Lin Road is a one-lane two-way local road connecting to other areas of Tai Po via Kam Shan Road in Shek Kwu Lung/Kam Shan areas.

8.2 The surrounding areas have the following characteristics:

- (a) to the immediate north about 10m away from the Site at lower level on the downhill side are some domestic structures with separate access, and to the further northwest are religious institutions (namely 泰國寺 and 慈雲法宇);
- (b) to the east is Tolo Highway and to its further east is Shek Kwu Lung Village;
- (c) to the west is the Tai Po Water Treatment Works and its associated facilities within the “G/IC” zone; and
- (d) to the further south of the Site across Shek Lin Road is another religious institution with columbarium development, namely Pun Chun Yuen (半春園).

## **9. Planning Intention**

The planning intention of the “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.

## **10. Comments from the Relevant Government Departments**

10.1 The following Government departments have been consulted and their views are summarized as follows:

### Columbarium Policy

10.1.1 Comments of the Director of Food and Environmental Hygiene

(DFEH):

- (a) the Private Columbaria Ordinance (PCO), which regulates the operation of private columbaria through a licensing scheme, came into effect on 30.6.2017 upon gazettal. Under the PCO, only private columbaria that have obtained a licence may sell or newly let out niches. Any private columbarium which applies for a licence must comply with the Town Planning Ordinance (Cap. 131) and other requirements prescribed in the PCO or specified by the Private Columbaria Licensing Board (the Licensing Board), including land-related, building-related, right to use the columbarium premises, deed of mutual covenant (if applicable), fire safety, etc. A licence applicant is also required to submit a management plan to the Licensing Board for approval. The management plan should show that suitable measures on traffic and public transport arrangement or management would be taken to minimize any adverse impact that operation of the columbarium may have on the neighbourhood. In determining whether to approve an application for a licence, the Licensing Board must have regard to the public interest and may have regard to any other relevant considerations;
- (b) as far as the subject columbarium is concerned, a set of the specified instrument (SI) application (viz. a licence, exemption and temporary suspension of liability) in respect of a pre-cut-off columbarium has been received by the Licensing Board. The SI application is being processed by the Private Columbaria Affairs Office (PCAO) according to the prevailing procedure;
- (c) based on the proposed plans submitted by the applicant in support of his SI application, it is noted that the total number of niches proposed under the licence application tallies with that as shown in the submitted information under the planning application (**Appendix Ij**). As the proposed plans including niche information submitted by the applicant are not in specified format and with complete and correct information, verification of niche information under SI application cannot be verified by the PCAO at this juncture; and
- (d) regarding the “Ancestral Card Schedule” as mentioned in the applicant’s submission, it is outside the jurisdiction of the PCO and he offers no comment from licensing of private columbaria perspective.

### Religious Policy

10.1.2 Comments of the Secretary of Home Affairs (SHA):

- (a) no objection to the application from the religious point of view; and

- (b) the applicant, Siu Ling Shan (Ling Hin Fat Yuen) Buddhist Charitable Foundation Limited, is a bona fide religious and tax-exempted charitable body registered under section 88 of the Inland Revenue Ordinance. According to the record of the Chinese Temples Committee, Ling Hin Fat Yuen is registered as a Chinese Temple under the Chinese Temples Ordinance.

#### Land Administration

##### 10.1.3 Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) no objection to the application;
- (b) the subject lot is governed by New Grant No. TP5811 as varied by Building Licence No. 737/52 dated 31.3.1952. The subject lot is an agricultural lot. Building Licence No. 737/52 is subject to all Special Conditions, except Condition 1 of G.N. 364/34 as amended by G.N. 50/40 which permits building land of 3,000 sq.ft. and garden area of 10,115 sq.ft. The proposed religious and columbarium uses are not acceptable uses under the existing lease conditions and there are existing structures without approval on the lot as well as on Government land. A warning letter dated 7.4.2017 in respect of the unapproved structures has been registered in the Land Register against the subject lot;
- (c) according to his record, the applicant has applied to his office for a modification to rectify the breach of lease conditions in early 2017. The application was rejected and the applicant was advised to obtain prior planning approval from the Board;
- (d) according to the proposed temporary traffic arrangement in Figures 5.1 and 5.2 in the revised TIA Report at **Appendix Ii** (as shown on **Drawings A-6 and A-7**), the proposed Pick Up/Drop off Area falls within unleased and unallocated Government land while a small portion of it is governed by STT 1628 granted to the applicant for Pai Lau purpose; and
- (e) should the application be approved by the Board, the applicant is required to submit an application to LandsD for a lease modification/waiver/tenancy to implement the proposal together with the proposed temporary traffic arrangement in (d) above. However, there is no guarantee that such application will be approved by LandsD and there is no guarantee of right of way to the proposed temporary traffic arrangement. If it is approved by LandsD acting in its capacity as landlord at its absolute discretion, it will be subject to such terms and conditions, including but not limited to payment of premium/waiver fee/rent and administrative fee as may be imposed.



### Building Matters

- 10.1.4 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
- (a) no in-principle objection to the application under the Buildings Ordinance (BO);
  - (b) there is no record of approval by the Building Authority for the existing structures at the Site and BD is not in a position to offer comments on their suitability for the use related to the application; and
  - (c) the applicant should note the advisory comments under BO as detailed in **Appendix II**.

### Traffic

- 10.1.5 Comments of the Commissioner for Transport (C for T):
- (a) no in-principle objection to the application from traffic engineering point of view;
  - (b) he has no adverse comments on the revised TIA report at **Appendix Ii** and considers the traffic impacts arising from the ancestral cards as assessed in the supplementary information at **Appendix II** can be tolerated on traffic grounds; and
  - (c) the applicant shall submit the temporary traffic arrangement proposal as detailed in paragraph 5.2 of the revised TIA report at **Appendix Ii**, including adoption of Go/Stop operation as temporary traffic control (**Drawing A-7**) and deployment of staff to regulate traffic at the proposed Pick Up/Drop off Area, to C for T and Commissioner of Police for approval at least one month before implementation.

### Environment

- 10.1.6 Comments of the Director of Environmental Protection (DEP):
- (a) no objection to the application from environmental planning and chlorine risk viewpoints in view of the applicant's commitment to adopt environmental mitigation measures and good operational practices as detailed in **Appendix II**.
  - (b) the applicant should follow the good operation practice and administrative measures recommended in EPD's *Guidelines on Air Pollution Control for Joss Paper Burning at Chinese Temples, Crematoria and Similar Places*. If burning of joss paper will be allowed in future, the applicant should install, operate and maintain smokeless joss paper furnace(s) as recommended in the Guidelines; and

- (c) in the design, construction, operation and maintenance of sewage disposal measures, the volume of wastewater arising from the use of eco-friendly joss paper burner should be taken into consideration. The construction and operation of septic tank and soakaway system (STS) shall strictly follow the requirements stipulated in ProPECC PN5/93. The STS location should be far away from any water sensitive receivers nearby, and to meet the minimum clearance distance set in ProPECC PN5/93.

#### Urban Design and Landscape

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

###### *Urban Design*

- (a) according to the applicant's submission, only existing structures no. 17, 18 and 19 will be converted to two underground septic tanks and two toilets. Given that the proposed building bulk will be the same as now except changes for the toilet structures and underground septic tanks, he has no comment on the application from urban design and visual perspectives;

###### *Landscape*

- (b) no objection to the application from landscape planning perspective;
- (c) the Site is situated in an area of rural landscape character comprising woodlands and religious buildings. Although the applied use is not in line with the planning intention of "GB" zone, it is not incompatible with the surrounding environment;
- (d) the Site is occupied by existing structures. Mature trees in good condition are found scattered within the Site. It is noted that the existing structures no. 17, 18 and 19 are proposed to be converted to two toilets and two underground septic tanks, and no existing trees will be affected by the proposed works;
- (e) should the Board approve the application, the standard condition for submission and implementation of landscape proposal is not recommended; and
- (f) the applicant is reminded to maintain the existing vegetation within the Site in satisfactory condition at all times.

#### Drainage and Sewerage

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

- (a) no comment on the application from public drainage point of view; and
- (b) there is no public sewer available for connection in the vicinity of the development. EPD's comments should be sought on the use of septic tank for sewage disposal arrangement.

#### Water Supply

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

- (a) no objection to the application;
- (b) for provision of water supply to the development, the applicant may need to extend the inside services 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 services within the private lots to WSD's standards; and
- (c) the Site falls within the consultation zone of Tai Po Water Treatment Works and Tai Po Tau Water Treatment Works, which is a Potentially Hazardous Installation. Comments from EPD should be sought in this respect.

#### Fire Safety

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

- (a) no in-principle objection to the application subject to fire service installations and water supplies for firefighting being provided to his satisfaction;
- (b) Emergency Vehicular Access (EVA) arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by Buildings Department; and
- (c) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.

#### Geotechnical Aspect

##### 10.1.11 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) no comment on the application; and
- (b) the applicant is advised to note his other comments as detailed in **Appendix II**.

Gas Safety Aspect

10.1.12 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) no comment on the proposed development from a gas safety point of view;
- (b) there is a high pressure underground town gas transmission pipeline (running along Tolo Highway) in the vicinity of the Site; and
- (c) the applicant/consultant/works contractor shall liaise with the Hong Kong and China Gas Company Limited in respect of the exact locations of existing or planned gas pipes/gas installations in the vicinity of the Site and any required minimum set back distance away from them during the design and construction stages of development. They are also required to observe the requirements of the Electrical and Mechanical Services Department's "Code of Practice on Avoiding Danger from Gas Pipes".

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

- (a) Commissioner of Police;
- (b) Chief Highway Engineer/New Territories East, Highways Department;
- (c) Director of Agriculture, Fisheries & Conservation;
- (d) Project Manager (North), Civil Engineering and Development Department; and
- (e) District Officer (Tai Po), Home Affairs Department.

**11. Public Comments Received During Statutory Publication Period**

11.1 On 26.6.2018, 27.11.2018, 26.3.2019, 10.5.2019 and 4.6.2019, the application and further information submitted by the applicant were published for public inspection. During the first three weeks of the statutory public inspection periods, a total of 150 public comments were received from Tai Po District Council Members, Lam Tsuen Valley Committee, Village Representatives of Lin Au Village and Shek Kwu Lung Village and individuals (with 82 public comments in the form of standard letters) and all of them raise objection to the application. All the public comments received are deposited at the meeting for Members' inspection and samples of the comments are attached at **Appendix III**.

11.2 The main grounds of the objecting comments are summarized as follow:-

- (a) the proposed development would cause traffic congestion, road safety and parking problems in Kam Shan/Lin Au areas, in particular traffic chaos during festive/holiday seasons;
- (b) the proposed development will increase pedestrian flow and attract strangers to the area and create public security problems;

- (c) the operation of the columbarium will cause nuisance and generate adverse environmental, feng shui, psychological and health impacts on the nearby residents, particularly those in the nearby villages. It would also affect the tranquil living environment in the area;
- (d) the proposed development is not in line with the planning intention of “GB” zone and the practice of “destroy first, apply later” should not be encouraged; and
- (e) the approval of the application will set an undesirable precedent for similar applications.

## 12. **Planning Considerations and Assessments**

### *The Proposal*

12.1 The application is to seek planning permission for the existing religious institution and columbarium uses with ancillary quarters at the Site, which falls entirely within an area zoned “GB” on the OZP. The Site is currently occupied by existing religious building structures with a total number of 757 columbarium niches (including 458 niches not yet sold/allotted) and 1 782 ancestral cards (including 905 cards not yet sold/allotted) accommodated on ground floor of one of the temple buildings (namely 地藏殿, i.e. structure no. 9) and a one-storey building (namely 壁龕, i.e. structure no. 16) as well as an ancillary quarters consisting of six bedrooms with a GFA of about 166.4m<sup>2</sup> on the first floor of structures no. 6 and 7. The application also involves the provision of a new permanent toilet building with underground septic tank by conversion of the existing structures no. 17, 18 and 19. According to the applicant, the resultant total GFA after the conversion works will be reduced from about 970m<sup>2</sup> to 943.6m<sup>2</sup> and there will be no increase in the overall development intensity and building bulk.

### *Planning Intention*

12.2 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 (other than redevelopment) within this zone. While the application is not in line with the planning intention of the “GB” zone, the current application is not for a new development. Instead, it is an application to regularize the existing religious institution and columbarium use in a religious institution compound with minor conversion works for a proposed toilet building to minimize any sewage impact on the Site and its surrounding areas. Provided that the application would not result in any adverse visual, traffic and environmental impacts, sympathetic consideration may be given to the application.

### *Land Use Compatibility*

12.3 The Site is situated in an area of rural landscape character comprising woodlands

and religious buildings with similar religious uses found in the vicinity (**Plans A-2 and A-3**). The columbarium use is confined to the G/F of one of the temple buildings and another single-storey building within the compound, which are located on a hill slope and far away from major residential uses/village settlements separated by the Tolo Highway. The closest residential developments nearby are some village houses at about 10 m away from the Site at a lower level on the downhill side with separate access. Moreover, the access road to the Site connecting to Shek Lin Road is not shared by any other developments. Significant nuisances on nearby residents are not anticipated. The columbarium use under application is considered not incompatible with the surrounding land uses mainly comprising natural hillslopes and the Tai Po Water Treatment Works to its west.

#### *Religious Policy*

- 12.4 As advised by SHA, the applicant, Siu Ling Shan (Ling Hin Fat Yuen) Buddhist Charitable Foundation Limited, is a bona fide religious and tax-exempted charitable body registered under section 88 of the Inland Revenue Ordinance. Ling Hin Fat Yuen has also been registered as a Chinese Temple under the Chinese Temples Ordinance.

#### *Traffic Impact and Crowd Management*

- 12.5 The Site is accessible by vehicles via an access road connecting to Shek Lin Road and Kam Shan Road. To address the potential traffic problems caused by the columbarium use, the applicant has submitted a revised TIA Report and proposed to implement a traffic management plan (**Appendix Ii**). According to the applicant's submission, as there is a lack of parking facilities within the Site and in its immediate surrounding areas, visitors will not access the Site by private vehicles. As such, the TIA has assumed that all visitors would access the Site by taxi and concludes that the traffic flow generated by the columbarium use will not exceed the capacity of the critical road junctions in the area. The applicant has also submitted supplementary information (**Appendix II**) to assess the estimated number of visitors for the 1 782 ancestral cards. C for T considers that the traffic impact arising from the ancestral cards can be tolerated on traffic grounds in addition to the assessment given in the revised TIA Report. In view of the above, C for T and C of P have no objection to the application.
- 12.6 According to the proposed traffic management plan included in the submitted TIA (**Appendix Ii**), during non-festival days, the Site will be locked and advance telephone booking will be required for an appointment to visit, and staff will not necessarily be present at the Site without any appointment. During festival days, visitors will be advised to arrive at the Site by using the proposed Pick Up/ Drop Off Area at the end of the access road off Shek Lin Road (**Drawings A-6 and A-7**). To avoid affecting the local traffic condition, the applicant has also committed to deploy staff to prevent vehicles parking/stationing at the proposed Pick Up/Drop Off Area. Both C of P and C for T have no objection to the measures proposed under the traffic management plan. C for T also advises that the applicant should submit the temporary traffic arrangement proposal to C for T and C of P for approval at least one month before implementation. In this regard, as advised by FEHD in paragraph 10.1.1(a) above, a licence applicant is required to submit a management plan to the Private Columbaria Licensing Board for

approval. The management plan should show that suitable measures on traffic and public transport arrangement or management would be taken to minimize any adverse impact that operation of the columbarium may have on the neighbourhood.

#### *Other Aspects*

- 12.7 The applicant has submitted an Environmental Assessment Report, Sewerage Impact Assessment Report and GPRR (**Appendix Ia**) as well as other supplementary information to demonstrate that the uses under application will not have adverse impacts on the environment, sewerage and slope stability. Government departments consulted including DEP, CE(MN) of DSD, CE/C of WSD, H(GEO) of CEDD, CTP/UD&L of PlanD, DEMS and D of FS have no objection to/no adverse comment on the application.

#### *Town Planning Board Guidelines*

- 12.8 According to TPB PG-No. 10 for development within “GB” zone, 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; should not overstrain the capacity of the existing and planned infrastructure; should not be susceptible to adverse environmental effects or be the source of pollution; and should not adversely affect slope stability. CTP/UD&L of PlanD has no objection to the application from landscape planning and visual perspectives as no existing trees will be affected by the proposed conversion works for a new toilet building and the proposed building bulk will be same as the existing development intensity. Other concerned Government departments including DEP, CE(MN) of DSD, CE/C of WSD and H(GEO) of CEDD have no objection to/no adverse comments on the application. On this front, the application is considered generally in line with the TPB PG- No. 10.

#### *Land Administration, Building Matters and Licensing*

- 12.9 DLO/TP of LandsD has no objection to the application. However, the religious and columbarium uses are not acceptable uses under the existing lease conditions and there are existing structures without approval on the subject lot as well as on Government land. Should the application be approved by the Board, the applicant is required to submit an application to LandsD for a lease modification/waiver/tenancy to implement the proposal.
- 12.10 CBS/NTW of BD has no in-principle objection to the application. However, he advises that there is no record of approval by the Building Authority for the existing structures at the Site; and enforcement action may be taken to effect the removal of any unauthorised building works (UBW) erected on leased land in accordance with BD’s enforcement policy against UBW when necessary. CBS/NTE of BD advises that 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.
- 12.11 As advised by DFEH, the applicant has submitted an application for a licence and exemption for the columbarium use, which is being processed by the PCAO according to the prevailing procedure. Moreover, DFEH points out that the

operation of private columbaria is regulated under the Private Columbaria Ordinance through a licensing scheme. Any private columbarium which applies for a licence must comply with the requirements specified by the Licensing Board, including land-related, building-related, right to use the columbarium premises, fire safety, etc. Depending on the actual circumstances of each application and having regard to the views of relevant bureaux and departments and other parties concerned, the Licensing Board may impose conditions as it thinks fit.

*The Kam Shan/Shek Kwu Lung Cluster of Private Columbaria*

12.12 Including the subject columbarium, there are six known private columbaria located in the vicinity of Kam Shan/Shek Kwu Lung area, all of which are only accessible through Kam Shan Road. Apart from the subject columbarium under the current application, there are two other planning applications received from two of the known private columbaria in the Kam Shan/Shek Kwu Lung cluster area. Application No. A/TP/657 involves a columbarium within Poh Yea Ching Shea (般若精舍) at Mui Shue Hang Village providing a total of about 5 400 niches, whereas Application No. Y/TP/27 is a rezoning application for a columbarium at Kam Shan Road (Cheung Ha Tsing Shea 祥霞精舍) providing a total of about 1 700 niches. These two planning applications will be submitted to the Committee for consideration in due course. Same as the subject application, the other two planning applications will be considered based on their individual merits.

*Public Comments*

12.13 Regarding the public comments objecting to the application on the grounds as detailed in paragraph 11, concerned Government departments' comments and the planning assessments 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, the Planning Department 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 19.7.2023, 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 number of niches and ancestral cards within the Site shall not exceed 757 and 1 782 respectively; and
- (b) the submission and implementation of fire service installations and water supplies for fire-fighting proposal to the satisfaction of the Director of Fire Services or of the Town Planning Board.



### Advisory Clauses

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

13.3 There is no strong reason to recommend rejection of the application.

## **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 and attachments received on 19.6.2018
Appendix Ia	Supplementary information (Environmental Assessment Report, Sewerage Impact Assessment Report and Geotechnical Planning Review Report) received on 21.6.2018
Appendix Ib	Further information (FI) received on 20.8.2018 providing responses to departmental comments
Appendix Ic	FI received on 19.9.2018 providing responses to departmental comments
Appendix Id	FI received on 20.11.2018 providing responses to departmental comments and a Traffic Impact Assessment (TIA) Report
Appendix Ie	FI received on 18.3.2019 providing responses to departmental comments, a management plan for the operation of the Columbarium and a revised TIA Report
Appendix If	FI received on 2.5.2019 providing responses to departmental comments and a revised TIA Report
Appendix Ig	FI received on 3.5.2019 providing clarifications on background information of the application
Appendix Ih	FI received on 15.5.2019 providing a layout plan for the proposed conversion works
Appendix Ii	FI received on 28.5.2019 providing responses to departmental comments and a revised TIA Report
Appendix Ij	FI received on 3.6.2019 providing clarifications on background information of the application
Appendix Ik	FI received on 26.6.2019 providing responses to departmental comments and clarifications on background information of the application

Appendix II	FI received on 8.7.2019 providing responses to departmental comments
Appendix II	Other comments of relevant Government departments
Appendix III	Public comments
Appendix IV	Recommended advisory clauses
Drawings A-1 to A-7	Drawings submitted by the applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a to 4h	Site photos

**PLANNING DEPARTMENT  
JULY 2019**

**Other Comments of Relevant Government Departments**

**1. Comments of the Chief Building Surveyor/New Territories West, Buildings Department**

The applicant should note the following comments under the Buildings Ordinance (BO):

- (a) if the existing structures are erected on leased land without approval of the Buildings Department (BD) (not being a New Territories Exempted House), they are unauthorized under the BO and should not be designated for any approved use under the application;
- (b) for Unauthorized Building Works (UBW) erected on leased land, enforcement action may be taken by the BD to effect 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;
- (c) before any new building works are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
- (d) the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations respectively;
- (e) 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 Building (Planning) Regulations at the building plan submission stage;
- (f) the sustainable building design requirements and the pre-requisites under PNAP APP-151 & 152 for gross floor area (GFA) concessions would be applicable to new development. In this connection, any non-mandatory or non-essential plant rooms of new development may be accountable for GFA under the BO subject to their compliance with the above PNAPs;
- (g) for development of a columbarium, premises should comply with specified design and construction requirements for columbarium facilities as outlined in PNAP APP-154; and
- (h) detailed comments under the BO will be provided at the building plan submission stage.

**2. Comments of the Director of Environmental Protection**

The applicant has committed to adopt environmental mitigation measures and good operational practices including the followings:

- (a) the operating hours of the premises would be between 9 am and 5 pm during normal days and festival days;
- (b) appointment shall be made in advance by telephone before visitors could visit the premises on any day;
- (c) small-scale religious ceremonies would be held indoor only;
- (d) there will be no permanent residents, except two volunteers will be present on site during day time, and a maximum of 6 monks or nuns every season staying for up to a week;
- (e) a maximum of about 60 persons will be present on site during special religious activities;
- (f) visitors are not allowed to burn joss paper within the Site, and only one bundle of joss sticks is allowed for burning for one family group per visit;
- (g) permanent toilets with underground septic tank and soakaway systems will be constructed; and
- (h) sullage arising from kitchen uses would be stored and tankered away.

**3. Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department**

The applicant should be advised of the followings:

- (a) existing slopes/retaining walls will affect or be affected by the proposed works. The stability of these slopes/retaining walls should be assessed taking into consideration of the effects arising from the proposed works. Upgrading works should be carried out for these slopes/retaining walls under the development if found necessary; and
- (b) man-made slopes on unallocated Government land that affect the private site should be the responsibility of the lot owner(s) and should be included in the private land disposal for maintenance purposes. In this regard, he recommends that the lot owners shall enter into a formal lease modification to, among others, take up the full responsibility of the affected Government land throughout the lease term by means of the standard 'Green-hatched-black' clause.

**Recommended Advisory Clauses**

- (a) prior planning permission should have been obtained before commencing the applied uses at the Site;
- (b) to note the comments of the Director of Food and Environmental Hygiene (DFEH) that:
  - (i) the Private Columbaria Ordinance (PCO), which regulates the operation of private columbaria through a licensing scheme, came into effect on 30.6.2017 upon gazettal. Under the PCO, only private columbaria that have obtained a licence may sell or newly let out niches. Any private columbarium which applies for a licence must comply with the Town Planning Ordinance (Cap. 131) and other requirements prescribed in the PCO or specified by the Private Columbaria Licensing Board (the Licensing Board), including land-related, building-related, right to use the columbarium premises, deed of mutual covenant (if applicable), fire safety, etc. A licence applicant is also required to submit a management plan to the Licensing Board for approval. The management plan should show that suitable measures on traffic and public transport arrangement or management would be taken to minimize any adverse impact that operation of the columbarium may have on the neighbourhood. In determining whether to approve an application for a licence, the Licensing Board must have regard to the public interest and may have regard to any other relevant considerations; and
  - (ii) a set of the specified instrument (SI) application (viz. a licence, exemption and temporary suspension of liability) in respect of a pre-cut-off columbarium was received by the Licensing Board. The SI application is being processed by the Private Columbaria Affairs Office (PCAO) according to the prevailing procedure;
- (c) to note the comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) that:
  - (i) the proposed religious and columbarium uses are not acceptable uses under the existing lease conditions and there are existing structures without approval on the lot as well as on Government land; and
  - (ii) the applicant should submit an application to LandsD for a lease modification/waiver/tenancy to implement the proposal together with the proposed temporary traffic arrangement. However, there is no guarantee that such application will be approved by LandsD and there is no guarantee of right of way to the proposed temporary traffic arrangement. If it is approved by LandsD acting in its capacity as landlord at its absolute discretion, it will be subject to such terms and conditions, including but not limited to payment of premium/waiver fee/rent and administrative fee as may be imposed;
- (d) to note the comments of the Commissioner for Transport (C for T) that the applicant should submit the temporary traffic arrangement proposal as detailed in

paragraph 5.2 of the revised TIA report at **Appendix Ii**, including adoption of Go/Stop operation as temporary traffic control and deployment of staff to regulate traffic at the proposed Pick Up/Drop off Area, to C for T and Commissioner of Police at least one month before implementation;

- (e) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) as detailed in paragraph 1 of **Appendix II**.
- (f) to note the comments of the Director of Environmental Protection (DEP) that:
  - (i) the applicant has committed to adopt environmental mitigation measures and good operational practices including those detailed in paragraph 2 of **Appendix II**.
  - (ii) the applicant should follow the good operation practice and administrative measures recommended in the “Guidelines on Air Pollution Control for Joss Paper Burning at Chinese Temples, Crematoria and Similar Places”. If burning of joss paper will be allowed in future, the applicant should install, operate and maintain smokeless joss paper furnace(s) as recommended in the Guidelines; and
  - (iii) in the design, construction, operation and maintenance of sewage disposal measures, the volume of wastewater arising from the use of eco-friendly joss paper burner should be taken into consideration. The construction and operation of septic tank and soakaway system (STS) shall strictly follow the requirements stipulated in ProPECC PN5/93. The STS location should be far away from any water sensitive receivers nearby, and to meet the minimum clearance distance set in ProPECC PN5/93;
- (g) to note the comments of Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that for provision of water supply to the development, the applicant may need to extend the inside services 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 services within the private lots to WSD’s standards.
- (h) to note the comments of the Director of Fire Services (D of FS) that emergency vehicular access arrangement (EVA) shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administrated by Buildings Department; and detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans;
- (i) to note the comments of Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) that the existing vegetation within the Site should be maintained in satisfactory condition at all times;
- (j) to note the comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H/GEO, CEDD) as detailed in paragraph 3 of **Appendix II**; and

- (k) to note the comments of the Director of Electrical and Mechanical Services (DEMS) that :
  - (i) there is a high pressure underground town gas transmission pipeline (running along Tolo Highway) in the vicinity of the Site; and
  - (ii) the applicant/consultant/works contractor shall liaise with the Hong Kong and China Gas Company Limited in respect of the exact locations of existing or planned gas pipes/gas installations in the vicinity of the Site and any required minimum set back distance away from them during the design and construction stages of development. They are also required to observe the requirements of the Electrical and Mechanical Services Department's "Code of Practice on Avoiding Danger from Gas Pipes".