

RNTPC Paper No. Y/TP/27C
For Consideration by the
Rural and New Town Planning
Committee on ~~7.2.2020~~ 26.5.2020

**APPLICATION FOR AMENDMENT OF PLAN
UNDER SECTION 12A OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. Y/TP/27

- Applicant** : Fancy Lotus Limited represented by Vision Planning Consultants Limited
- Site** : Lots 738 S.C and 738 S.C ss.1 in D.D. 6, 74-75 Kam Shan Road, Tai Po, N.T.
- Site Area** : 87.09 m² (about)
- Lease** : Lots No. 738 S.C and 738 S.C. s.s.1 in D.D. 6 subject to General Conditions of Sale published in GN 365 of 1906 which restricted building(s) to 2-storey high
- 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 of the application]
- Zoning** : “Village Type Development” (“V”)
- Proposed Amendment** : Rezoning from “V” to “Government, Institution or Community(3)” (“G/IC(3)”)

1. The Proposal

- 1.1 The applicant proposes to rezone the application site (the Site) from “V” to “G/IC(3)” to regularise the current columbarium use on Site under the name of Cheung Ha Ching Shea (祥霞精舍) (**Plan Z-1**). The applicant has also proposed a new set of Notes for the proposed “G/IC(3)” zone at **Appendix II** with all uses including ‘Columbarium’ use placed under Column 2 requiring planning permission from the Town Planning Board (the Board).
- 1.2 The Site is currently occupied by a single-storey building for columbarium use without a valid planning permission. Details of the columbarium are as follows:

Site Area	87.09 m ² (about)
Total Floor Area	87.09 m ² (about)
Plot Ratio	1.0
Site Coverage	100%
No. of Block	1
No. of Storey	1

- 1.3 According to the applicant, the columbarium came into existence since 2007. There are a total of 1 700 niches accommodated in the columbarium. A detailed

account of the current status of the columbarium niches is as follows (**Appendix Id**):

Classification	Single-urn	Double-urn	Family (up to 4 urns)	Total
Total No. of Niches	272	1 062	366	1 700
No. of Sold Niches	162	--	--	162
• <i>Occupied</i>	• 66			• 66
• <i>Not Yet Occupied</i>	• 96			• 96
No. of Niches Available for Sale	110	1 062	366	1 538

- 1.4 The applicant has submitted a Traffic Impact Assessment (TIA) Report in support of the rezoning application (**Appendix Ij**). Based on the traffic surveys/assessments of the TIA, while the background traffic conditions along Kam Shan Road during the festival days are critical, the road network has ample capacity at typical weekends and illegal parking was only observed during the festival days. In view of the critical traffic conditions and illegal parking in the surrounding areas during festival days, the applicant has proposed a mandatory closure of the columbarium on Ching Ming and Chung Yeung Festivals and their shadow weekends (i.e. Saturdays, Sundays and public holiday(s) within the two weeks immediate before and after the festival days). Moreover, for crowd management purpose, the applicant has adopted a ‘visit-by-appointment’ system to control the visitor number to a maximum of 50 persons per hour (i.e. a holding capacity limits to 25 persons at the columbarium at any time with maximum 2 sessions per hour). In addition, no parking facility will be provided within the Site, and the applicant has committed to notify the visitors about alternative parking facilities in the vicinity.
- 1.5 For the toilet facility, the applicant proposes to use, with the owners’ consent, the toilets currently provided at a nearby village house at No. 72 Kam Shan Road (**Plans Z-2 and Z-4c**) to serve the visitors to the columbarium. Besides, under the existing house rules, no burning of offerings or incense sticks is allowed within the subject columbarium.
- 1.6 The schematic layout of the columbarium; the public transport and car parking facilities in the vicinity; the vehicular routes accessing the site; pedestrian access routes submitted by the applicant are shown on **Drawings Z-1 to Z-4** respectively.
- 1.7 The Site is the subject of a previous application (No. Y/TP/18) submitted by the same applicant for the same rezoning proposal from “V” to a “G/IC” sub-zone with the same schedule of uses to regularise the subject columbarium. That application was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 8.11.2013 mainly on the grounds of incompatibility with the existing village setting in the area; failing to demonstrate that the proposed development would have no adverse traffic impacts; failing to demonstrate that the proposed closure of the columbarium on Ching Ming and Chung Festivals is implementable and enforceable; and setting of undesirable precedent for other similar applications within the “V” zone. A detailed account of the previous application is provided in paragraph 5 below.

- 1.8 In support of the application, the applicant has submitted the following documents:
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|---|----------------------|
| (a) Application form received on 4.6.2018 | (Appendix I) |
| (b) Planning Statement attached to the application form | (Appendix Ia) |
| (c) Supplementary Information attached to the application form | (Appendix Ib) |
| (d) Further Information (FI) received on 16.10.2018 providing a revised TIA Report and responses to departmental and public comments# | (Appendix Ic) |
| (e) FI received on 4.2.2019 providing clarifications on niche information^ | (Appendix Id) |
| (f) FI received on 15.3.2019 providing a revised TIA Report and responses to departmental comments# | (Appendix Ie) |
| (g) FI received on 24.5.2019 providing a revised TIA Report and responses to departmental comments^ | (Appendix If) |
| (h) FI received on 31.7.2019 providing a revised TIA Report^ | (Appendix Ig) |
| (i) FI received on 2.10.2019 providing a revised TIA Report and responses to departmental comments# | (Appendix Ih) |
| (j) FI received on 15.11.2019 providing a revised TIA Report and responses to departmental comments# | (Appendix Ii) |
| (k) FI received on 20.12.2019 providing a revised TIA Report and responses to departmental comments^ | (Appendix Ij) |
| (l) <i>FI received on 5.5.2020 providing supplementary information^</i> | <i>(Appendix Ik)</i> |

(# *accepted but not exempted from publication and recounting requirements*)

(^ *accepted and exempted from publication and recounting requirements*)

- 1.9 On 17.8.2018, 4.1.2019 and 31.5.2019, the Committee agreed to the applicant's request to defer making a decision on the application for two months, one month and two months respectively to allow time for the applicant to prepare FI to support the application. *After the deferral, the applicant submitted FI on 31.7.2019, 2.10.2019, 5.11.2019 and 20.12.2019. The latest FI was received on 20.12.2019 and the application is scheduled for consideration by the Committee on 7.2.2020. In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 7.2.2020 for consideration of the application has been rescheduled, and the Board has agreed to adjourn consideration of the application. Again, the meeting on 30.3.2020 has been rescheduled and the application is now scheduled for consideration by the Committee at this meeting.*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Planning Statement (**Appendix Ia**) and FIs (**Appendices Ic to Ijk**). They can be summarized as follows:

- (i) the columbarium is in line with the prevailing government's policy in providing more columbaria facilities to meet future demand for new columbarium niches in the local community;
- (ii) the columbarium was converted from an existing old village house. Negative impact on the land supply for new Small House development in the area as a result of the applied use is not anticipated;

- (iii) the columbarium can provide an alternative to local indigenous villagers other than cremation and burial;
- (iv) no burning facilities will be provided on the Site, and no burning of offerings or incense sticks within and outside the subject columbarium is allowed. Hence, no environmental problems due to the columbarium are anticipated;
- (v) the 'Columbarium' use is proposed to be inserted under Column 2 of the "G/IC(3)" zone which ensures full planning control over the columbarium development from the Board and Government departments;
- (vi) the operation of columbarium is enforceable and will be monitored under the Private Columbaria Ordinance upon the Board's approval of the subject application; and
- (vii) the revised TIA Report (**Appendix Ij**) submitted has demonstrated that the columbarium will not cause any adverse traffic impacts on the surrounding areas. As mentioned in the revised TIA Report, there are existing public car parks in the vicinity of the Site (**Drawing Z-2**). Green mini bus stop and MTR station are within 15-20 minutes walking distance. Given the closure of the columbarium on Ching Ming and Chung Yeung Festivals and their shadow weekends (i.e. Saturdays, Sundays and public holidays within the 2 weeks immediate before and after the festival days); introduction of 'visit-by-appointment' System; and promotion of access by public transport, the subject columbarium development with a total of 1,700 niches is considered acceptable on traffic terms.

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.

4. Background

History of the Site

- 4.1 The Site was zoned "V" since the first statutory plan covering Tai Po area was gazetted on 12.12.1980.

The Kam Shan/Shek Kwu Lung Cluster

- 4.2 According to the information provided by the Food and Environmental Hygiene Department (FEHD), a total of six applications for Specified Instrument under the Private Columbarium Ordinance (PCO) are received from the private columbaria (including the subject columbarium) located in the vicinity of Kam Shan/Shek Kwu Lung area (the cluster area) (**Plan Z-1**). These columbaria are zoned "V", "Open Space", "G/IC" or "Green Belt" zones on the OZP and all of them are only accessible through Kam Shan Road.

- 4.3 Amongst the six private columbaria in the cluster area, five of them (including the

subject columbarium) have submitted planning applications. Apart from the current application, the other four applications are detailed below:

Rejected Application

“O” zone

- (a) Application No. Y/TP/23 is for rezoning of the application site from “O” to “G/IC” to regularise the existing religious and columbarium uses under the name of Ever Rest Temple (常寂園) providing a total of 763 niches. The application was rejected by the Committee on 6.2.2015 mainly on the grounds that access to the application site had to make way through the Mui Shue Hang Playground and the applicant failed to demonstrate the acceptability of the proposed traffic arrangement and that the development would not cause adverse traffic impact on the surrounding areas;

Approved Applications

“GB” zone

- (b) Application No. A/TP/652 for religious institution and columbarium with ancillary quarters under the name of Siu Ling Shan (Ling Hin Fat Yuen) (小靈山(靈顯法院)) providing a total of 757 niches was approved with conditions by the Committee on 19.7.2019 mainly on the considerations of being not incompatible with the surrounding land uses; no adverse traffic impact was anticipated; and being generally in line with the Town Planning Board Guidelines No. 10 in that no trees were affected and other concerned department had no adverse comment or objection to the application;

“G/IC” zone

- (c) Application No. A/TP/657 for a columbarium providing a total of 5 302 niches under the name of Poh Yea Ching Shea (般若精舍) at Mui Shue Hang Village was approved with conditions by the Committee on 29.11.2019 mainly on the considerations of being in line with the planning intention of “G/IC” zone; not incompatible with the surrounding land uses; and no adverse traffic, environmental, visual and landscape impacts were anticipated; and

Application Under Processing

“V” zone

- (d) Application No. Y/TP/29 is for rezoning of the application site from “V” to “G/IC(3)” to regularize existing temple-cum-columbarium structures providing 13,426 niches and one 3-storey ancillary office building within Buddhist Cheung Ha Temple (佛教長霞淨院). The application site under Y/TP/29 is located to the immediate south of the subject application. That application is still under processing and will be submitted to the Committee for consideration in due course (**Plan Z-2**).

5. Previous Application

- 5.1 The Site is the subject of a previous application No. Y/TP/18 submitted by the same applicant for the same rezoning proposal with identical proposed schedule of uses. Under the previous application, the applicant proposed to close the columbarium during Ching Ming and Chung Yeung Festival days; and to adopt special and temporary traffic arrangements during the shadow weekends of festival days, including segregation of pick-up and drop-off lay-bys on the two sides of Kam Shan Road; operation of the lay-bys as “No Waiting” zone; banning of right-turn at the exit lay-by; and provision of temporary traffic signs. The applicant also proposed to widen part of Kam Shan Road for providing a 50m-long lay-by to address the demand of pick-up/drop-off areas and the illegal parking problem along Kam Shan Road. The previous application was rejected by the Committee on 8.11.2013 mainly on the grounds of being not compatible with the existing village setting of the area; the TIA submitted failing to demonstrate that the development would have no adverse traffic impacts on the surrounding areas and the proposed traffic and pedestrian arrangements and widening of Kam Shan Road could resolve the possible adverse traffic impacts satisfactorily; failing to demonstrate that the proposed closure was implementable and enforceable; and setting of undesirable precedent for other similar applications within the “V” zone.
- 5.2 Compared with the previous application (No. Y/TP/18), major development parameters and total number of niches under the current application remain the same except the change in breakdown of the types of the niches. The applicant also proposed closure of the columbarium on festival days as well as their shadow weekends; adoption of “visit-by-appointment” system; and promotion of use of public transport under the current application. A comparison of the major development parameters of the two applications are as follows:

Development Parameters	(a) Y/TP/18 (Previous Rejected Application)	(b) Y/TP/27 (Current Application)	(b-a) Difference
Proposed Rezoning	“V” to “G/IC(2)”	“V” to “G/IC(3)”	While the “G/IC” sub-zone number is different, the schedule of uses are the same
Site Area (about)	87.09 m ²	87.09 m ²	No change
Total Floor Area	87.09 m ²	87.09 m ²	No change
Plot ratio	1.0	1.0	No change
Site coverage	100%	100%	No change
No. of block	1	1	No change
No. of storey	1	1	No change
Number of niches (*)	1,700 (137)	1,700 (162)	No change (+25)
• Single-urn	• 250 (136)	• 272 (162)	• +22 (+26)
• Double-urn	• 1,450 (1)	• 1,062 (0)	• -388 (-1)
• Family	• 0 (0)	• 366 (0)	• +366 (NA)

* Number of niches already occupied

- 5.3 Details of the previous application No. Y/TP/18 are summarized at **Appendix III**

and its location is shown on **Plans Z-1 and Z-2**.

- 5.4 The Site is also the subject of a previous application No. Y/TP/14 submitted by the same applicant for rezoning from “V” to “Other Specified Uses” annotated “Columbarium”, which was withdrawn by the applicant on 4.6.2012.

6. Similar Application

- 6.1 While there is no similar application for rezoning for columbarium use in the area considered by the Committee, one similar application (No. Y/TP/29) within the same “V” zone is now under processing (**Plan Z-2**) and will be submitted to the Committee for consideration in due course.
- 6.2 Application No. Y/TP/29 is for rezoning of the application site from “V” to “G/IC(3)” to regularize existing temple-cum-columbarium structures (佛教長霞淨院) involving 13 426 niches (with 5 508 niches already sold) and 3 268 memorial tablets and one 3-storey ancillary office building. The site of Application No. Y/TP/29 is located adjacent to the Site under the current application and they share the same vehicular access, i.e. Kam Shan Road.

7. The Site and its Surrounding Areas (Plans Z-1 and Z-2, and photos on Plans Z-3, Z-4a to Z-4c)

- 7.1 The Site is:
- (a) currently occupied by a single-storey building on an elevated platform being used by Cheung Ha Ching Shea (祥霞精舍) as a columbarium without a valid planning permission;
 - (b) located within the village proper of Kam Shan Village and immediately adjoins existing residential dwellings;
 - (c) within the village ‘environs’ (‘VE’) of Kam Shan Village; and
 - (d) accessible by vehicles via a lay-by at Kam Shan Road and by a sloping footpath to the elevated platform.
- 7.2 The surrounding areas have the following characteristics:
- (a) to the immediate west and south of the Site are mainly village houses. The Yau Ancestral Hall (邱氏祠堂) is sandwiched between the Site and the proposed toilet facilities for the visitors. The Site shares the same footpath access with the adjoining ancestral hall to the east as well as the village houses No. 78 and 79 west of the Site (**Plan Z-2** and photo 3 on **Plan Z-4b**). The Buddhist Cheung Ha Temple (佛教長霞淨苑) (No. 43 and 44 Kam Shan Village), a temple with columbarium facilities, is located to the immediate southeast;
 - (b) to the further northwest of the Site on the opposite side of Kam Shan Road is the Kam Shek New Village;

- (c) to the further north of the Site across Lam Tsuen River is a public housing development, namely Tai Wo Estate; and
- (d) Tai Wo MTR Station is about 250m away from the Site.

8. Planning Intention

The planning intention of the “V” zone is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House.

9. Comments from the Relevant Government Departments

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

Land Administration

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

- (a) no objection to the application;
- (b) the Site falls within Lots No. 738 S.C and 738 S.C. s.s.1 in D.D. 6. The original lease is untraceable. However, according to his records, it seems that the lots are governed by General Conditions of Sale published in Government Notification No. 365 of 1906 with development restricted to 2 storeys. If this is the case and subject to further legal advice, the applied use in a single-storey building may be permitted under the lease and in such case, if the application is approved by the Board, the applicant is not required to seek a lease modification from LandsD to implement it. Therefore, any planning conditions, if imposed by the Board, cannot be written into the lease through lease modification;
- (c) the Site is not covered by any Modification of Tenancy or building licence;
- (d) according to his record, there is a tiled concrete platform erected on Government Land abutting the Site, and a suspected unauthorized extension of structure;

- (e) the area of the Site and other details submitted by the applicant have not been verified; and
- (f) the number of outstanding Small House applications and the number of 10-year Small House demand for the four villages sharing the same “V” zone (Kam Shan, Shek Kwu Lung, Pan Chung and Pan Chung San Tsuen) are 11 and 477* respectively.

(* The figures of 10-year Small House demand are provided by the Indigenous Inhabitant Representatives (IIRs) of concerned villages and the information so obtained is not verified by LandsD)

Traffic

9.1.2 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 (**Appendix Ij**) and considers that the proposed crowd and traffic management measures including the ‘visit-by-appointment’ and proposed closure during the festival days and their shadow weekends are acceptable, and approval of the application will not cause adverse traffic impact on the surrounding areas; and
- (c) since the Private Columbaria Affairs Office (PCAO) will be responsible for monitoring the implementation of the management plan, the above crowd and traffic management measures as proposed by the applicant in the revised TIA report (**Appendix Ij**) should be included in the management plan for the Private Columbaria Licensing Board (Licensing Board)’s approval.

9.1.3 Comments of the Commissioner of Police (C of P):

- given the subject columbarium will be closed during the Ching Ming and Chung Yeung festival days and their shadow weekends before and after the festival days, and that during its operation hours, visitors are to be limited to 50 persons per hour inside the columbarium, the application is considered acceptable from the Police point of view.

Environment

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

- (a) it is noted that the applicant has proposed the following operational arrangements:

- (i) the subject columbarium would be closed during Ching Ming and Chung Yeung festival days and their shadow weekends before and after the two festival days;
 - (ii) the proposed operation hours of the columbarium would be between 9 am and 6 pm;
 - (iii) a “visit-by-appointment” system would be adopted to control the number of visitors;
 - (iv) no burning of incense, joss papers or candles offerings would be allowed within the columbarium; and
 - (v) the proposed columbarium would not involve sewage disposal within the Site. Instead, the applicant has obtained the owner’s consent for the visitors of columbarium to make use of washroom facilities at No. 72 Kam Shan Road. The applicant will be responsible for monitoring, managing and maintaining the washroom facilities;
- (b) no objection to the application on the understanding that there are mechanisms available at the s.16 application stage of the Town Planning Ordinance as well as under the PCO to ensure the applicant’s implementation of the proposed operational arrangements. During the s.16 planning application stage, the applicant should ensure the existing washroom facilities at No. 72 Kam Shan Road have sufficient capacity and are capable for handling sewage generated by the operation of the columbarium when all niches are occupied;
- (c) he trusts PlanD would also consider the suitability of the Site for the applied use from land use compatibility perspective, given there are village houses, which are sensitive receivers, adjoining the Site; and
- (d) according to his record, six complaints against the operation of Cheung Ha Ching Shea have been received since 2009. The complaints were mainly on grounds of air quality nuisances to nearby residents caused by burning of incense paper and joss sticks. Verbal and written advice was given to the person-in-charge of the subject columbarium.

Licensing Aspect

9.1.5 Comments of the Director of Food and Environmental Hygiene (DFEH):

General comments

- (a) the PCO, which regulates the operation of private columbaria

through a licensing scheme, came into effect on 30.6.2017 upon gazettal. Under the PCO, an operator of any columbarium will have to obtain a licence before he may sell or newly let niches. Columbaria seeking a licence must comply with the statutory requirements under the PCO, including those relating to land leases or other land instruments, town planning, building and fire safety. The licence applicant must also submit a management plan to satisfy the Licensing Board, i.e. the licensing authority under the PCO, that adequate measures would be taken to minimise the traffic, environmental and other adverse impacts that operation of the columbarium may have on the neighbourhood. In determining whether to approve an application for a licence or exemption (if applicable), the Licensing Board must have regard to the public interest and may have regard to any other relevant considerations;

Specific comments

- (b) the Licensing Board has received a set of specified instrument application (viz. a licence and temporary suspension of liability) from the subject private columbarium. It is noted that the total number of niches and the ash internment capacity proposed for the licence application tally with that proposed by the applicant in this planning application. The applications are being processed by the PCAO according to the prevailing procedures; and
- (c) as for the applicant's proposal to close the columbarium from visitors during the Ching Ming and Chung Yeung festival days and the shadow weekends before and after the festivals, PCAO will take up the responsibility of checking the licensee's compliance with its proposed access restriction measures provided that the measures are clearly stated in the proposed management plan under the licence application approved by the the Licensing Board. The PCAO will undertake the monitoring of implementation of the management plan within the site boundary of the licence.

Urban Design and Landscape

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

Urban Design

- (a) no particular comment on the application from urban design perspective given that the existing building bulk is small and would not be affected by the proposal; and

Landscape

- (b) no objection to the application from landscape planning perspective. The Site is situated in an area of rural landscape

character comprising village houses and scattered tree groups. Since the development would not involve alteration or extension of the existing single-storey village house and the Site is fully occupied by the existing building with no vegetation observed within the Site. Adverse impact to significant landscape resources is not anticipated.

Drainage

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

- (a) no in-principle objection to the application from public drainage viewpoint; and
- (b) there is public drain maintained by DSD in the vicinity of the Site. The subject columbarium should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from other areas surrounding the Site. Should the columbarium development be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site. Detailed comments will be provided at the s.16 planning application stage.

Fire Safety

9.1.8 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 or formal application from licensing authority.

Building Matters

9.1.9 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's attention is drawn to the following points:
- (i) if there are existing structures which had been erected on leased land without approval of the BD (not being an NTEH), they are unauthorized under the BO and should not be designated for any approved use under the subject application unless such are permissible under the PCO (Cap 630);
 - (ii) for unauthorized building works (UBW) erected on leased land, enforcement action may be taken by 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;
 - (iii) if the applied use is subject to the issue of licence, the applicant should be reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority;
 - (iv) the Site shall be provided with means of obtaining access thereto from a street and EVA in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively;
 - (v) if the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage;
 - (vi) noting that the applied use is a columbarium, the premises should comply with specified design and construction requirements for columbarium facilities as outlined in PNAP APP-154; and
 - (vii) detailed comments under the BO will be provided at the building plan submission stage.

Local Views

9.1.10 Comments of the District Officer/Tai Po, Home Affairs Department (DO(TP), HAD):

- according to his record, there was strong opposition from residents of Kam Shan Village and members of Yau Ancestral

Hall (邱氏祠堂) on the columbarium activities. Complaints have been lodged to LandsD and reported on media. While the opposing sentiments quieted down recently, it is still expected that there will be grave local concerns and objections from residents, especially those living near the Site.

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

- (a) Secretary for Food and Health;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Chief Highway Engineer/New Territories East, Highways Department;
- (d) Project Manager/North, Civil Engineering and Development Department; and
- (e) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department.

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

10.1 On 15.6.2018, 26.10.2018, 22.3.2019, 11.10.2019 and 22.11.2019, the application and FI submitted by the applicant were published for public inspection. During the statutory public inspection periods, a total of 1 738 public comments were received, of which 844 raise objection to the application and the remaining 894 supporting the application. All the public comments received are deposited at the meeting for Members' inspection and samples of the comments are attached at **Appendix IV**.

10.2 A brief summary of the public comments are as follows:

	Publication Period	Opposing	Supporting	Total
1	15.6.2018 - 6.7.2018	188	24	212
2	26.10.2018 - 16.11.2018	225	458	683
3	22.3.2019 - 12.4.2019	374	410	784
4	11.10.2019 - 1.11.2019	4	1	5
5	22.11.2019 - 13.12.2019	53	1	54
	Total	844	894	1 738

10.3 The **844 opposing comments** were received from a former Tai Po District Council Member (**Appendix IV(1)**), Neo Democrats (a current Tai Po District Council Member) (**Appendix IV(2)**), Chairman/ Vice-chairman of Kam Shan Village Committee and village representatives of Kam Shan Village (with 15 signatures from villagers) (**Appendix IV(3)**), Alliance for the Concern over Columbarium Policy (**Appendix IV(4)**) and local villagers/residents and other individuals (**Appendices IV(5) to IV(9)**). Amongst the 844 opposing public comments, 829 public comments were submitted in the form of three types of standard letters, their samples are at **Appendices IV(7), IV(8) and IV(9)** respectively. Main grounds of objection are summarized as follows:

- (a) the columbarium is incompatible with the residential use in the surrounding areas and the adjoining "tsz-tong", and will affect property

price and the living environment. Such kind of development should be located far away from residential areas;

- (b) the columbarium is not in line with the planning intention of “V” zone, and the subject land lots should be reserved for the development of New Territories Exempted House by indigenous villagers;
- (c) the columbarium would cause traffic congestion, road safety and parking problems in Kam Shan, particularly traffic chaos during Ching Ming and Chung Yeung Festivals;
- (d) the columbarium will increase pedestrian flow and attract strangers to the area and create public security problems;
- (e) the mitigation measures and traffic management proposals as proposed in the TIA Report submitted by the applicant are not practical and enforceable, in particular the proposed closure of the columbarium on Ching Ming and Chung Yeung Festivals;
- (f) visitors to the columbarium were observed during the recent Ching Ming and Chung Yeung Festivals (photos at **Appendix IV(6)**) proving that the proposed closure of the columbarium by the applicant for crowd control purpose is not enforceable;
- (g) as the columbarium is located next to the existing village dwellings, it would pose adverse environmental impacts on the surrounding areas, especially noise resulting from chanting/rituals and air pollution resulting from burning of incense, paper offerings or other stuffs;
- (h) the operation of the columbarium will cause nuisance and adverse fung shui, psychological and health impacts on the nearby residents. The columbarium would also affect the tranquil living environment and harmonious life of the area;
- (i) the previous use of the lots was a traditional village house for residential purpose. The applicant has altered the building illegally by changing its use to columbarium. By turning the village house into a columbarium, the owner has reduced the potential supply of housing for indigenous villagers. Such practice of “breach first, apply later” should not be encouraged; and
- (j) approval of the application will set an undesirable precedent for similar applications.

10.4 The **894 supporting comments** were from individuals (including 9 commenters who have bought niches at the subject columbarium) (**Appendices IV(10) to IV(15)**). Of those supporting comments, 870 were submitted in the form of five types of standard letters, their samples are at **Appendices IV(11), IV(12), IV(13), IV(14)** and **IV(15)** respectively. Below is a summary of the supporting comments:

- (a) the columbarium has not generated adverse traffic, drainage and

environmental impacts to the district since its operation in 2007. It is a tidy, tranquil and convenient columbarium. The proposed “visit by appointment” system would help relieve pedestrian flow in the area and bring about positive impact;

- (b) a mandatory closure of the columbarium on Ching Ming and Chung Yeung festival days and their shadow weekends before and after the two festival days is a good arrangement as worshippers would visit the columbarium on weekdays;
- (c) the columbarium can cater for the pressing demand for columbarium niches and provide alternative burial service; and
- (d) although the subject columbarium is not large in scale, it can provide a much needed community facility in the district. The proposed “G/IC” zoning is acceptable which would serve the needs of local villagers.

11. Planning Considerations and Assessments

The Proposal

11.1 The applicant proposes to rezone the Site from “V” to “G/IC(3)” in order to regularize the existing columbarium use providing a total of 1 700 niches. According to the applicant, the existing columbarium use at the Site has been in operation since 2007, which was converted from an existing old village house without planning permission. Amongst the 1 700 niches under the application, the applicant advises that only 162 were sold before 30.6.2017, of which 66 niches have been occupied. In other words, there are still 1 538 niches available for sale in the columbarium. Under the new set of Notes for the “G/IC(3)” zone proposed by the applicant, all uses including ‘Columbarium’ use will be put under Column 2 requiring planning permission from the Board. The subject columbarium is located within the village proper of Kam Shan. The rezoning application needs to be comprehensively assessed taking into account the village setting and technical concerns.

Planning Intention

11.2 The Site falls within a larger area zoned “V” on the OZP with the planning intention to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. As mentioned in paragraph 11.1 above, the Site is located within the village proper of Kam Shan and immediately adjoins existing residential dwellings, the “V” zoning for the Site is therefore considered appropriate.

Land Use Compatibility

11.3 The Site is situated in an area of rural landscape character comprising village

houses and scattered tree groups, and immediately adjoins existing residential dwellings. It forms an integral part of the village setting where village office, ancestral hall and village houses are found. The pedestrian access to the elevated platform where the Site is located is also shared by the adjoining village houses and the Yau Ancestral Hall (**Plans Z-2, Z-4a and Z-4b**). Moreover, Kam Shan Road is the only vehicular access serving the nearby villages of Kam Shan, Kam Shek New Village and Shek Kwu Lung. The subject columbarium, with 1 700 niches (1 538 niches unsold), at this locality results in close juxtaposition of columbarium use and residential use as well as intermixing of grave sweepers and villagers in the location. The columbarium use is considered not compatible with the existing village setting of the area.

Traffic Impact and Crowd Management

- 11.4 The Site is accessible from Kam Shan Road, which is a two-way single-lane road. To address the potential traffic problems caused by the development and the illegal parking problems in the area, the applicant has submitted a revised TIA report (**Appendix Ij**) and proposed to close the subject columbarium during Ching Ming and Chung Yeung festival days and their shadow weekends (i.e. Saturdays, Sundays and public holiday(s) within the two weeks immediately before and after the festival days) and to adopt a ‘visit-by-appointment’ system to control the maximum number of visitors up to 50 visitors per hour on non-festival days.
- 11.5 C for T considers that the revised TIA report is acceptable from traffic engineering point of view provided that the monitoring of implementation of the crowd and traffic management measures proposed in the revised TIA report will be enforced under the PCO as part of the management plan attached to the licence approved by the Licensing Board. C of P also advises that if the subject columbarium is closed during the Ching Ming and Chung Yeung Festivals and their shadow weekends, the application is considered acceptable. In this regard, according to DFEH’s advice, the licence applicant is required to submit a management plan to the Licensing Board for consideration, demonstrating suitable measures on traffic arrangement or management taken to minimize any adverse impact that operation of the columbarium may have on the neighbourhood. Upon the approval of the licence by the Licensing Board, the PCAO will be responsible for monitoring the implementation of the proposed closure of columbarium arrangement.

Technical Aspects

- 11.6 DEP has no objection to the application on the understanding that there are mechanisms available at the s.16 application stage of the Ordinance as well as under the PCO to ensure the applicant’s implementation of the proposed environmental mitigation measures and good operational practices including closure during festival days and their shadow weekends; restriction on opening hours; control of visitors by “visit-by-appointment” system; no burning of incense, joss papers or candles offerings; and no sewage disposal within the Site with shared use of existing washrooms facilities at the adjacent premises.
- 11.7 Other Government departments consulted including CE/MN of DSD, CE/C of WSD, CHE/NTE of HyD, D of FS, PM/N and H(GEO) of CEDD and CTP/UD&L of PlanD have no objection to / no adverse comment on the

application.

Previous Application

- 11.8 The Site is the subject of a previous application No. Y/TP/18 for the same rezoning proposal from “V” to “G/IC” sub-area. That application was rejected on 8.11.2013 mainly on grounds of being not compatible with the existing village setting of the area; failing to demonstrate that the development would have no adverse traffic impacts on the surrounding areas and the proposed traffic and pedestrian arrangements and widening of Kam Shan Road could resolve the possible adverse traffic impacts satisfactorily; failing to demonstrate that the proposed closure of the columbarium on Ching Ming and Chung Yeung Festivals was implementable and enforceable; and setting of undesirable precedent for other similar applications within the “V” zone.
- 11.9 Compared with the previous application No. Y/TP/18, major development parameters under the current application remain the same except the change in breakdown of the types of the proposed niches. As the current application has proposed ‘visit-by-appointment’ and closure of the columbarium during festival days and their shadow weekends, C for T considers that the revised TIA report submitted under the current application is acceptable from traffic engineering point of view and has no in-principle objection to the application on the premise that the monitoring of implementation of the proposed crowd and traffic management measures will be enforced under the licence approved by the Licensing Board in accordance with the PCO.

Setting of Undesirable Precedent

- 11.10 There is no similar rezoning application within the same “V” zone approved by the Committee. The piecemeal rezoning of the Site to “G/IC(3)” to regularize columbarium development is considered inappropriate. Approval of the application would set an undesirable precedent and may encourage other similar applications for columbarium development in the same “V” zone. The cumulative effect of approving such similar applications would result in sporadic columbarium development leading to a deterioration of the village setting and a general degradation of the environment of the area.

Public Comments and Local Views

- 11.11 According to DO(TP) of HAD, there was strong opposition from residents of Kam Shan Village and members of Yau Ancestral Hall (邱氏祠堂) on the columbarium activities and complaints have been lodged to LandsD and reported on media. While 894 supporting public comments have been received, there are also 844 public comments objecting to the application. Those objecting views are from a former Tai Po District Council Member, Neo Democrats (a current Tai Po District Council Member), Kam Shan Village Committee and village representatives of Kam Shan Village, Alliance for the Concern over Columbarium Policy, local villagers/residents and other individuals, and they are against the application mainly on environmental, traffic and nuisance grounds and urged that the proliferation of the columbarium-related services should be halted and relocated away from the area. In this regard, the planning assessment and comments of Government departments above are relevant.

12. Planning Department's Views

12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10 and local objections conveyed by DO(TP), HAD, the Planning Department does not support the proposed rezoning of the Site from "V" to "G/IC(3)" for the following reasons:

- (a) the Site falls within an area zoned "V" with the planning intention primarily for development of Small Houses by indigenous villagers. The proposed columbarium use is considered not compatible with the existing village setting of the area, particularly the residential dwellings located to its immediate west and south. There is no strong planning justification for piecemeal rezoning of the Site from "V" to "G/IC(3)" zone to make provision for application for columbarium use. The current "V" zone for the Site is considered appropriate; and
- (b) the approval of the application would set an undesirable precedent for other similar rezoning applications within the "V" zone. The cumulative effect of approving such similar applications would result in sporadic columbarium development leading to a deterioration of the village setting and a general degradation of the environment of the area.

12.2 Alternatively, should the Committee decide to agree/partially agree to the subject application, PlanD will recommend zoning amendments to the OZP for the consideration of the Committee. The proposed amendments to the approved Tai Po OZP No. S/TP/28, together with revised Notes and Explanatory Statement, would be submitted to the Committee for approval prior to gazetting under section 5 of the Town Planning Ordinance upon reference back of the OZP.

13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to agree, partially agree, or not to agree to the application.

13.2 Should the Committee decide not to agree to the application, Members are invited to advise what reason(s) for the decision should be given to the applicant.

14. Attachments

Appendix I	Application form received on 4.6.2018
Appendix Ia	Planning statement attached to the application form
Appendix Ib	Supplementary information attached to the application form
Appendix Ic	Further Information received on 16.10.2018
Appendix Id	Further Information received on 4.2.2019
Appendix Ie	Further Information received on 15.3.2019
Appendix If	Further Information received on 24.5.2019
Appendix Ig	Further Information received on 31.7.2019
Appendix Ih	Further Information received on 2.10.2019
Appendix Ii	Further Information received on 15.11.2019
Appendix Ij	Further Information received on 20.12.2019

Appendix Ik

Further Information received on 5.5.2020

Appendix II
Appendix III
Appendix IV

Proposed schedule of uses for the “G/IC(3)” zone
Previous application
Sample of public comments

Drawing Z-1
Drawing Z-2
Drawing Z-3
Drawing Z-4

Schematic layout of the columbarium
Public transport and car parking facilities in the vicinity
Vehicular routes accessing the Site
Pedestrian access routes

Plan Z-1
Plan Z-2
Plan Z-3
Plans Z-4a to 4c

Location plan
Site plan
Aerial photo
Site photos

PLANNING DEPARTMENT
FEBRUARY MAY 2020