

Previous s.16 Application on the Application Site

Application No.	Proposed Use	Date of Consideration	Rejection Reasons
A/TM/487	Columbarium	13.1.2017 Rejected	(1) to (3)

Rejection Reasons

- (1) the columbarium use is not in line with the Town Planning Board Guidelines for Application for Development within “Green Belt” Zone (No. TPB PG-No. 10) in that the applied use involves a new development through building conversion for columbarium use. There is a general presumption against development in “Green Belt” (“GB”) zone. There is no strong planning justification to justify a departure from the planning intention;
- (2) the applicant fails to demonstrate that the columbarium use would not result in adverse impacts on traffic and pedestrian circulation as well as pedestrian safety in the area nor the feasibility and practicality of the proposed traffic and crowd management plan; and
- (3) approval of the application would set an undesirable precedent for other similar applications in the “GB” zone. The cumulative effect of approving such similar applications would result in adverse impact on traffic and pedestrian safety in the area.

**Similar s.16 Applications for Columbarium Use
within “Green Belt” (“GB”) zone on the Tuen Mun OZP**

Approved Application

<u>Application No.</u>	<u>Zoning</u>	<u>Proposed Use</u>	<u>Date of Consideration</u>	<u>Approval Conditions</u>
Hau Shi Tong in Sam Shing Temple (1,176 Niches or 1,440 Urns)				
A/TM/497	“GB”	Columbarium Use	28.7.2017	(1) To (10)

Approval Conditions

- (1) the maximum number of niches and ancestral tablets within the Premises shall not exceed 1,176 niches and 266 ancestral tablets;
- (2) no burning activity, as proposed by the applicant, is allowed within the Premises at any time during the planning approval period;
- (3) the submission of a crowd management plan (CMP) and timing of implementation within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Commissioner of Police or of the TPB;
- (4) the implementation of the proposed measures identified in the approved CMP to the satisfaction of the Commissioner for Transport and the Commissioner of Police or of the TPB;
- (5) the submission of water supply for fire fighting and fire services installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB;
- (6) the implementation of water supply for fire fighting and fire services installations proposal within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB;
- (7) the submission of drainage and sewerage proposals including connection to public sewer within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB;
- (8) the implementation of drainage and sewerage proposals including connection to public sewer within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB;
- (9) if any of the above planning conditions (1) or (2) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (10) if any of the above planning conditions (3), (4), (5), (6), (7) or (8) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

Rejected Application

<u>Application No.</u>	<u>Zoning</u>	<u>Proposed Use</u>	<u>Date of Consideration</u>	<u>Rejection Reason(s)</u>
Hau Shi Tong in Sam Shing Temple (2,580 Niches or 3,150 Urns)				
A/TM/450	“GB”	Columbarium Use	11.12.2015 (Rejected by TPB upon review)	(1) To (4)

Rejection Reasons

- (1) the columbarium use is not in line with the TPB-PG No.10 in that the applied use involves a new development / intensification of use through building conversion for columbarium use. There is a general presumption against development in “GB” zone. There is no strong planning justification to justify a departure from the planning intention;
- (2) the applicant fails to demonstrate that the use would not have adverse traffic and pedestrian circulation impacts to the area. The narrow staircases would be a potential hazard to the heavy pedestrian flows;
- (3) the means of escape of the premises for columbarium use are not satisfactory and no solid proposal of enhanced fire safety provision is provided in the submission; and
- (4) approval of the application would set an undesirable precedent for similar applications in the “GB” zone, generating adverse cumulative impacts on traffic and pedestrian circulation to the local area.

Advisory Clauses

- (a) to note the comments of the Director of Food and Environmental Hygiene (DFEH) that:
- i. the Private Columbaria Ordinance (Cap. 630) ('the PCO'), which regulates the operation of private columbaria through a licensing scheme, has come into effect since 30 June 2017. Under the PCO, only private columbaria that have obtained a licence can sell or newly let out niches. The operator of a private columbarium who 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 ('PCLB'), 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 PCLB 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 PCLB must have regard to the public interest and may have regard to any other relevant considerations;
 - ii. according to the Application Guide promulgated by the PCLB, the applicant should obtain the Board's consent/approval of the planning application before submission of the management plan to the PCLB. The management plan to be submitted by the applicant to the PCLB in support of the licence application should include the crowd and traffic management measures accepted (and the conditions imposed) by the relevant departments and the Board in the approved planning application. The concerned departments (including Transport Department, the Police, Fire Services Department and Planning Department) will be consulted on the management plan and the PCLB will take these comments into account in considering whether the management plan should be approved. Under the PCO, the PCLB may grant an application for the issue of a licence in respect of a columbarium only if a management plan, submitted by the applicant in respect of the columbarium, has been approved by the PCLB. If the PCLB decides to approve the licence application, the approved management plan will be included in the licensing conditions and the licensee will be required to implement the approved management plan. There are legal provisions under the PCO to regulate breaches of licensing conditions imposed by the PCLB;
 - iii. with regard to the applicant's proposed 'Visit-By-Appointment System', the Private Columbaria Affairs Office has no comment provided that:
 - (i) the applicant undertakes to (a) inform the affected parties (including the purchasers of the sold niches) in writing that the House Rules, special traffic arrangements and a Visit-By-Appointment System arrangement during the grave sweeping festival periods are proposed by the applicant and will be implemented; and (b) remind the concerned parties by letter, email, fax, SMS and any possible notification means of the above-mentioned arrangements during grave sweeping festival periods at least one month in advance of each period;
 - (ii) for future buyers of the interment rights of niches, the applicant undertakes to state clearly in the sales agreements that above-mentioned arrangements during grave sweeping festival periods will be adopted and explain these arrangements

to the potential buyers before entering into the sales agreements; and

- (iii) the applicant should keep a register for the Visit-By-Appointment System for all the visitors, to record the information include (but not limited to): the date and time of visit session, niche no. to be visited, the name of visitors, the no. of visitors, the time of leaving the columbarium, the date of booking and the means of booking and etc. so that monitoring on compliance of such mandatory Visit-By-Appointment System arrangement could be conducted by his staff on the spot;
- (b) to note the comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD) that:
- i. the existing columbarium use within the subject building is in breach of the lease condition: no grave shall be made on, nor shall any human remains be interred in, or deposited on the lot either in earthenware jars or otherwise. He reserves the right to take necessary enforcement action deemed appropriate under the lease conditions;
 - ii. the applicant will need to apply to LandsD for a land exchange for the columbarium proposal. He would advise that the proposal will only be considered upon receipt of formal application from the applicant. There is no guarantee that the application, if received by LandsD, will be approved and he reserves his comments on such. The application will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the application is approved, it would be subject to such terms and conditions as the Government shall deem fit to do so, including amongst others, charging of premium and administrative fee;
 - iii. notwithstanding there is an application for Licence with Temporary Suspension of Liability under the PCO covering the Lot, irrespective of whether planning permission will be given to the columbarium, LandsD reserves the rights to take enforcement action or land control action as may be considered appropriate should there be any breach of lease conditions or unauthorized occupation of Government land detected;
 - iv. notwithstanding that the applicant did not provide any documentary proof on the legal basis of 'Tsing Wan Kun' being the same as 'T'ong Tsing Wan Kun', the applicant is reminded that it is the applicant's own responsibility to secure any right-of-way arrangement for the subject development to ensure that any such arrangement would be legally effective for the Lot to enjoy the right. The Government will not be involved in any access arrangement among private lots nor be involved in any disputes on such matters;
 - v. application to LandsD for a land exchange or lease modification should be submitted by registered owner of the Lot. If the applicant obtains planning approval and thereafter applies to LandsD for a land exchange for the columbarium use, the applicant is required to clarify and prove the legal capacity of the managers of the registered owner to submit the land exchange application and execute the Conditions of Exchange, if approved;
- (c) to note the comments of the Commissioner for Transport (C for T) that the proposed traffic arrangement shall be implemented by the applicant. Residents along Tsing Shan Monastery Path (TSMP) and in Tsing Shan Tsuen should be coordinated and assistance

should be given if they drive on Ching Ming and Chung Yeung Festivals when TSMP is temporarily closed. Besides, TSMP is a village road not managed by TD. Relevant parties should be approached for temporarily closure of TSMP and/or implementation of special traffic arrangement.

- (d) to note the comments of the Commissioner of Police (C of P) that his concern on the implementation of TCMP and the coordination work with other columbarium operators in the vicinity should be duly addressed. Especially, the arrangement of proposed road closure at Yeung Ching Road is different from other columbarium operators. The applicant should ensure that the stakeholders affected by the proposed road closure are consulted in advance and coordinated to work out a workable plan for him to comment;
- (e) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that the access between the Site and Yeung Tsing Road, including Tsing Shan Monastery Path, are not and will not be maintained by HyD; and HyD shall not be responsible for implementation of the TCMP;
- (f) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that:
 - i. if the existing structures which had been erected on the leased land without approval of the Building Authority (not being a NTEH), they are unauthorised under the Buildings Ordinance (BO) and should not be designated for any approved use under the captioned application unless such are permissible under the Private Columbaria Ordinance (Cap. 630);
 - ii. before any new building works are to be carried out on the Lot, prior approval and consent of the BA should be obtained, otherwise they are unauthorised building works (UBW). An Authorised Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
 - iii. for UBW erected on the leased land, enforcement action may be taken by the BA to effect their removal in accordance with Buildings Department'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 Lot under the BO;
 - iv. if the proposed use under application is subject to the issue of a licence, the applicant is reminded that any existing structures on the Lot 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;
 - v. the subject building shall be provided with means of obtaining access thereto from a street and emergency vehicular access (EVA) in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively. Noting that Fire Engineering approach may be adopted as the provision of EVA with standard width and gradient for carriageway is impracticable due to topographical constraint, detailed comments under the BO will be provided at the building plan submission stage;
 - vi. if the subject building does not abut on a specific 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;

- vii. noting that the proposed development is a columbarium, the Premises should comply with the specified design and construction requirements for columbarium facilities as outlined in PNAP APP-154; and
 - viii. detailed comments under the BO will be provided at the building plan submission stage;
- (g) to note the comments of the Director of Fire Services (D of FS) that detailed fire services requirements will be formulated upon receipt of formal submission of general building plans or referral from the licensing authority;
- (h) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C,WSD) that due to the relatively high level and remoteness of the Premises and the subject building, the applicant may need to make use of his/her private sump and pump system to effect adequate water supply to the columbarium. The applicant shall be responsible for the construction, operation and maintenance to WSD's standards of any private water supply system for water supply to the columbarium;
- (i) to note of comments of Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES (A&M), AMO) that the building for columbarium is the Home for the Monks and the Aged, Tsing Shan Monastery which is a Grade 2 historic building. His comments from heritage conservation viewpoint on any works to be carried out at the building should be sought;
- (j) to note the comments of the Director of Electrical and Mechanical Services (DEMS) that :
- i. a minimum of 7.6m vertical clearance between the overhead lines and the top of the structure must always be maintained; and a minimum of 5.5m clearance at all directions must also be maintained;
 - ii. the roof of the developments shall not be accessible;
 - iii. no scaffolding, crane and hoist shall be built or operated within 9m from the outermost 400kV conductors at all times. Warning notices should be posted at conspicuous locations to remind operators and workers of the site boundary. CLP Power shall be consulted on the safety precautions required for carrying out any works near the 400kV overhead lines;
 - iv. in any time during and after construction, CLP Power shall be allowed to get access to the 50 metres working corridor area of the concerned 400kV overhead lines for carrying out any operation, maintenance and repair work including tree trimming;
 - v. should the application be approved, the applicant should be advised to observe / follow the Code of Practice on “Working near Electricity Supply Lines” established under the Electricity Supply Lines (Protection) Regulation” when carrying out works in the vicinity of the electricity supply lines; and
 - vi. as regards the electric and magnetic fields arising from the transmission overhead lines, the applicant should be warned of possible undue interference to some electronic equipment in the vicinity;
- (k) to liaise with the nearby residents, religious institutions and other parties including Tuen

Mun District Council, if required, and to provide them with relevant information of the columbarium development to address their concerns.