

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PN/56

<u>Applicant</u>	: Yuan Fa Guan (Hong Kong) Taoism (道教(香港)元符觀) represented by R-riches Property Consultants Limited
<u>Site</u>	: Government Land (GL) in D.D. 133, Ha Pak Nai, Yuen Long, New Territories (Former Ha Pak Nai Tsuen Public Primary School)
<u>Site Area</u>	: About 998m ²
<u>Land Status</u>	: Government Land
<u>Plan</u>	: Approved Sheung Pak Nai and Ha Pak Nai Outline Zoning Plan (OZP) No. S/YL-PN/9
<u>Zoning</u>	: “Agriculture” (“AGR”) (about 99%) and “Green Belt” (“GB”) (about 1%)
<u>Application</u>	: Proposed Temporary Religious Institution (Taoist Temple and Place for Taoist Education) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use a vacant school premises (former Ha Pak Nai Tsuen Public Primary School) for proposed temporary religious institution (Taoist temple and place for Taoist education) for a period of 5 years. The application site (the Site) mainly falls within an area zoned “AGR” (about 99%) with a minor portion straddling on “Green Belt” (“GB”) (about 1%) on the approved Sheung Pak Nai and Ha Pak Nai Outline Zoning Plan (OZP) No. S/YL-PN/9 (**Plan A-1**). According to the Notes of the OZP, ‘Religious Institution (not elsewhere specified)’ within the “AGR” zone and ‘Religious Institution’ within “GB” zone are Column 2 uses which require permission from the Town Planning Board (the Board).
- 1.2 According to the applicant, the former Ha Pak Nai Tsuen Public Primary School, which has 2 existing 1-storey buildings of about 165m² gross floor area, is proposed to be converted to provide Taoist temple, place for Taoist education and toilet uses (**Drawing A-2**). Religious activities, i.e. praying, worshiping, meditating will take place within structure B1 on a daily basis (**Drawing A-2**).

The operation hours are from 10:00 a.m. to 5:00 p.m. daily (including public holidays). There will be 5 staff working at the Site, including one caretaker, one cleaner and three Taoist priests. No staff will stay overnight at the Site. The estimated maximum daily visitors are about 10 and prior reservation is required. No parking space and loading/unloading bay will be provided on-site. It is anticipated that the visitors would go to the temple on foot after riding public transport, such as taxi and minibus. According to the applicant, no public announcement system, portal loudspeakers or any form of audio amplification system will be used at the Site. Burning of joss paper will be carried out in accordance with 'Guidelines on air pollution control for joss paper burning at Chinese temples, crematoria and similar places' issued by Environmental Protection Department. The layout of the proposed development is shown on **Drawing A-2** and pedestrian access to the Site is shown on **Drawing A-1**.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 3.1.2019 **(Appendix I)**
 - (b) Further information received on 4.2.2019 providing clarifications on the types of religious activities involved **(Appendix Ia)**
(accepted and exempted from publication and recounting requirements)
 - (c) Further information received on 12.2.2019 providing clarifications on the details of the operation **(Appendix Ib)**
(accepted and exempted from publication and recounting requirements)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Attachment of the Application Form and FI received on 12.2.2019 in **Appendix I** and **Appendix Ib**. They can be summarized as follows:

- (a) The applicant is a charitable organization recognized under section 88 of the Inland Revenue Ordinance.
- (b) The applicant wishes to use the Site as a Taoist temple and place for Taoist education for religious activities and to promote Taoism. The applicant currently does not have a venue for its operation. The Site will be the only venue for future operation.
- (c) The proposed development is temporary in nature which will not affect the planning intentions of the "GB" and "AGR" zones.
- (d) According to the "Vacant School Premises Sites Reviewed under the Central Clearing House Mechanism" published by the Planning Department (PlanD) in April 2017, it is recommended to retain the Site for 'Government, Institution or Community' ('G/IC') uses. The proposed development conforms to the 'G/IC' use.

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

As the Site involves Government land only, the “owner’s consent/notification” requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) is not applicable to the application.

4. Background

The Site is occupied by a vacant school and it is not subject to any active enforcement case.

5. Previous Application

There is no previous application on the Site.

6. Similar Application

There is no similar application for religious institution use within the “AGR” and “GB” zones on the OZP.

7. The Site and Its Surrounding Areas (Plans A-1 to A-4)

7.1 The Site is:

- (a) occupied by the former Ha Pak Nai Tsuen Public Primary School comprising 2 1-storey buildings which is currently vacant; and
- (b) accessible via a local track from Nim Wan Road to its south (**Plan A-2**);

7.2 The surrounding areas have the following characteristics (**Plan A-2** and **A-3**):

- (a) to the north, east and northwest are vegetated hillslopes;
- (b) to the southwest is a vacant land and to the further west are a residential dwelling, and an orchard; and
- (c) to the south across Nim Wan Road are a residential dwelling, some vacant structures, an orchard and cultivated agricultural land.

8. Planning Intention

The “AGR” zone is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application are summarised as follows:

Religious Policy

9.1.1 Comments of the Secretary for Home Affairs:

He has no objection towards the application from religious point of view.

Land Administration

9.1.2 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) the Site is located on unleased/unallocated Government Land (GL);
- (b) no permission is given for occupation of GL (about 998m² subject to verification) included in the Site. The act of occupation of GL without Government's prior approval is not allowed;
- (c) the Site is accessible to Nim Wan Road through GL. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way;
- (d) the Site does not fall within Shek Kong Airfield Height Restriction Area; and
- (e) should planning approval be given to the subject planning application, the applicant has to apply for a direct grant Short Term Tenancy (STT) for use of the Site. Such application will be considered by the Lands Department acting in the capacity as landlord at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by Lands Department.

Traffic

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

He has no adverse comment on the application from traffic engineering point of view.

9.1.4 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) It is noted that no vehicular access is proposed or to be granted under the application. He has no comment from highways maintenance point of view.

- (b) If the application is approved, the applicant is reminded that the application is approved on the understanding that there is and will be no vehicular access to/from the Site.

Natural Conservation and Agriculture

9.1.5 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) the Site falls largely within “AGR” zone with minor portion within “GB” zone. The agricultural activities are active in the vicinity. The agricultural infrastructures such as footpath and water source are available. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.
- (b) it is also noted that the Site is largely paved and is a former school site. According to the applicant, the proposed development would not involve alteration of existing building, excavation, diversion of stream, site formation or tree felling. In view of the above, he has no strong view on the application from nature conservation point of view. Nonetheless, should the application be approved, the applicant is advised to adopt appropriate measures to avoid causing disturbance or pollution to the surrounding wooded area. Existing trees on site should also be preserved.

Environment

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

- (a) DEP has no comment on the application.
- (b) Should the planning application be approved, the applicant is reminded that sewage arising from the proposed development should be directed from the Site to nearby public sewer. If septic tank and soakaway system is used in case of unavailability of public sewer, its design and construction should follow the requirements of the Practice Note for Professional Persons (ProPECC PN) 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” and are duly certified by an Authorized Person (AP).

Landscape

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

- (a) The Site is located on the north of Nim Wan Road, and lies in an area of “AGR” zone. The current application seeks permission for temporary religious institution for a period of 5 years. The Site is not subject to any previous planning application.

- (b) With reference to the site photos dated 11.1.2019 and aerial photo of 2018, the Site is mainly hard-paved with an existing structure at the eastern corner of the Site. Existing trees and shrubs are found adjoining the site periphery. The Site is situated in an area of rural landscape character. In view that the Site is already developed, significant change to the landscape character arising from the application is not envisaged. Hence, he has no objection to the application from the landscape planning perspective.
- (c) Should the application be approved by the Board, in consideration that the Site is not facing any prominent public frontage and it is screened by existing mature trees, the condition to maintain all vegetation within the Site in good condition for the duration of the planning approval period is considered adequate and appropriate.

Drainage

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

He has no objection in principle to the application from drainage point of view. Should the Board consider that the application is acceptable from planning point of view, conditions should be stipulated in the approval letter requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his department.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to water supplies for firefighting and fire service installations being provided to the satisfaction of Director of Fire Services.
- (b) Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.
- (c) Furthermore, the EVA provision in the Site shall comply with the standard as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 under the Building (Planning) Regulation 41D which is administered by the Buildings Department.

Building Matters

9.1.10 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

Noting that the proposed application is located on GL, he is not in a position to comment.

Others

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

- (a) no Food and Environmental Hygiene Department's (FEHD) facilities will be affected and such activity and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding;
- (b) for any waste generated from the such activity / operation, the applicant should arrange disposal properly at her own expenses; and
- (c) proper licence / permit issued by FEHD is required if there is any catering service / activities regulated by the Director of Food and Environmental Hygiene under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.

District Officer's Comments

9.1.12 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

His office has not received any comment from the locals on the application and he has no comment from departmental point of view.

9.2 The following government departments have no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (d) Chief Engineer/Land Works, Civil Engineering and Development Department (CE/LW, CEDD);
- (e) Director of Leisure and Cultural Services (DLCS);
- (f) Antiquities and Monuments Office, Leisure and Cultural Services Department (AMO, LCSD); and
- (g) Commissioner of Police (C of P).

10. Public Comment Received During the Statutory Publication Period

On 11.1.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 1.2.2019, 1 public comment was received from an individual supporting the application (**Appendix II**). The individual supported the application as the Site has been retained for G/IC use and therefore the proposed religious institution use appears to be appropriate.

11. Planning Considerations and Assessments

- 11.1 The proposed temporary religious institution (Taoist temple and place for Taoist education) would be accommodated within the existing vacated school premises (i.e. Former Ha Pak Nai Tsuen Public Primary School) on an area mainly zoned “AGR” (about 99%) with a small portion straddling on “GB” zone. According to the ‘Vacant School Premises Sites Reviewed under the Central Clearing House Mechanism’ promulgated by Planning Department in July 2018, the Former Ha Pak Nai Tsuen Public Primary School site is recommended to be retained for G/IC uses. In this regard, the proposed religious institution is considered in line with the recommended long-term use of the Site. Besides, the applicant is a charitable organization recognized under section 88 of the Inland Revenue Ordinance. The Home Affairs Bureau has no objection to the application from religious point of view. According to the DLO/YL, LandsD, the applicant has to approach the LandsD to apply for a direct grant STT for use of the Site, should planning approval be given, and the LandsD acting in the capacity as landlord will consider the case at its sole discretion and there is no guarantee that such case will be approved.
- 11.2 The proposed religious institution use at the Site is considered not incompatible with the rural character of the neighbourhood which mainly comprises vegetated hillslopes, scattered residential dwellings and orchard/agricultural land.
- 11.3 As the proposed development would not involve alteration of existing building, excavation, diversion of stream, site formation or tree felling, DAFC has no strong view from conservation point of view. DAFC also considers that the Site possesses potential for agricultural rehabilitation. However, the Site is already developed and significant change to the landscape character arising from the application is not envisaged. As such, CTP/UD&L has no objection to the proposed development. Besides, there would only be about 10 visitors by reservation each day arriving at the religious institution on foot and by public transport. No visitors or staff will stay overnight. Significant adverse environmental, drainage and traffic impacts on the surrounding area are not expected. Concerned Government departments, including EPD, DSD and TD, have no adverse comment on the application. To address the technical concerns of DSD and D of FS, approval conditions are recommended in para. 12.2.
- 11.4 There was one public comment received supporting the application mainly on grounds stated in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.3 are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 5 years until 22.2.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 5:00 p.m. to 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no public announcement system, portal loudspeakers or any form of audio amplification system, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) the existing landscape planting on the Site shall be maintained at all times during the approval period;
- (d) the submission of drainage proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 22.8.2019;
- (e) in relation to (d) above, the implementation of the drainage proposals within **9 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 22.11.2019;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of fire service installations proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 22.8.2019;
- (h) in relation to (g) above, the implementation of the fire service installations proposal with **9 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 22.11.2019;
- (i) if the above planning conditions (a), (b), (c) or (f) 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
- (j) if any of the above planning conditions (d), (e), (g) or (h) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

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

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

13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form with attachments received on 3.1.2019
Appendix Ia	Further Information received on 4.2.2019 on the types of religious activities involved
Appendix Ib	Further Information received on 12.2.2019 on the details of the operation
Appendix II	Public Comment
Appendix III	Advisory Clauses
Drawing A-1	Location Plan
Drawing A-2	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2019**