

**Minutes of 1245th Meeting of the
Town Planning Board held on 7.5.2021**

Present

Permanent Secretary for Development
(Planning and Lands)
Ms Bernadette H.H. Linn

Chairperson

Mr Lincoln L.H. Huang

Vice-chairperson

Mr Wilson Y.W. Fung

Mr Stephen L.H. Liu

Dr Frankie W.C. Yeung

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Dr Lawrence W.C. Poon

Dr C.H. Hau

Mr Thomas O.S. Ho

Mr Alex T.H. Lai

Dr Lawrence K.C. Li

Professor T.S. Liu

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Franklin Yu

Mr Stanley T.S. Choi

Mr L.T. Kwok

Mr Daniel K.S. Lau

Ms Lilian S.K. Law

Mr K.W. Leung

Professor John C.Y. Ng

Mr Ricky W.Y. Yu

Dr Roger C.K. Chan

Dr Venus Y.H. Lun

Mr C.H. Tse

Dr Conrad T.C. Wong

Mr Y.S. Wong

Principal Assistant Secretary (Transport 3)

Transport and Housing Bureau

Mr Andy S.H. Lam (a.m.)

Chief Traffic Engineer/New Territories West

Transport Department

Ms Carrie K.Y. Leung (p.m.)

Chief Engineer (Works), Home Affairs Department

Mr Gavin C.T. Tse

Principal Environmental Protection Officer (Metro Assessment)

Environmental Protection Department

Dr Sunny C.W. Cheung

Director of Lands

Mr Andrew C.W. Lai (a.m.)

Assistant Director (Regional 3)

Lands Department

Mr Alan K.L. Lo (p.m.)

Director of Planning

Mr Ivan M.K. Chung

Deputy Director of Planning/District

Miss Fiona S.Y. Lung

Secretary

Absent with Apologies

Mr K.K. Cheung

Professor Jonathan W.C. Wong

Dr Jeanne C.Y. Ng

In Attendance

Assistant Director of Planning/Board

Ms Lily Y.M. Yam

Chief Town Planner/Town Planning Board

Ms Caroline T.Y. Tang (a.m.)

Ms Johanna W.Y. Cheng (p.m.)

Senior Town Planner/Town Planning Board

Ms Christine C.M. Cheung (a.m.)

Mr W.C. Lui (p.m.)

Opening Remarks

1. The Chairperson said that the meeting would be conducted with video conferencing arrangement.

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1244th Meeting held on 23.4.2021

[The item was conducted in Cantonese.]

2. The draft minutes of the 1244th meeting held on 23.4.2021 were sent to Members on 7.5.2021. Subject to any proposed amendments by Members on or before 10.5.2021, the minutes would be confirmed.

[Post-meeting Note: The minutes were confirmed on 10.5.2021 without amendments.]

Agenda Item 2

[Open Meeting]

Matters Arising

[The item was conducted in Cantonese.]

- (i) [Confidential Item] [Closed Meeting]

3. The item was recorded under confidential cover.

- (ii) Court of First Instance's Judgment on a Judicial Review Application (HCAL 1916/18) against Decision of the Town Planning Board on a Section 12A Application No. Y/ST/38

[Open Meeting] [The item was conducted in Cantonese.]

4. The Secretary reported that Ronald Lu & Partners (Hong Kong) Limited (RLP) and AECOM Asia Company Limited (AECOM) were two of the consultants of the applicant. The following Members had declared interests on the item:

Mr Thomas O.S. Ho - having current business dealings with RLP and AECOM;

Mr K.K. Cheung - his firm having current business dealings with RLP;

Mr Alex T.H. Lai - his former firm having current business dealings with RLP; and

Dr C.H. Hau - having past business dealings with AECOM.

5. As the item was to report the judgment on a Judicial Review (JR) application and no discussion was required, Members agreed that the above Members could stay in the meeting. Members also noted that Mr K.K. Cheung had tendered an apology for being unable to attend the meeting.

6. The Secretary reported that the JR application was lodged by Royal Billion Investment Limited (the Applicant) on 12.9.2018 against the decision of the Rural and New Town Planning Committee (RNTPC) on 15.6.2018 not to agree to a section 12A application (No. Y/ST/38) to rezone a site from “Green Belt” and “Government, Institution or Community” to “Residential (Group B) 4” at Tung Lo Wan Hill Road, Sha Tin. The JR was heard by the Court of First Instance (CFI) on 27, 28 and 31.8.2020. On 30.4.2021, the CFI handed down the judgment. A copy of the judgment was sent to Members on 5.5.2021. The JR was dismissed with costs to the Town Planning Board (the Board). All the following grounds of the JR were rejected by the Court. In gist, the Court held that:

- (a) Ground 1 (Breach of principle of equality) – the Board applied the same approach and standard in the Application and the rezoning proposals by the Government. The principle of equality could not be taken to compel a public body to make a wrong decision in order to be seen to act consistently with previous, wrong, decisions;

- (b) Ground 2 (Irrelevant consideration) – the Court held that the feasibility of the proposed road widening works, being a critical issue of the Application, was not an irrelevant consideration;
- (c) Ground 3 (Failure to take into account or give weight to relevant matters) – the Government’s policy to increase housing supply was not a mandatory consideration but at best discretionary, and there was no basis to contend that it had not been taken into account by the Board;
- (d) Ground 4 (Breach of “Tameside Duty”) – the Applicant chose to address the issues of feasibility and landscape impacts of road widening at a later stage, i.e. after the approval of the rezoning application. It was unfair to impose a duty on the Board to make further inquiries on those matters;
- (e) Ground 5 (Procedural unfairness) – a new photomontage was produced by the Planning Department (PlanD) for the first time at the meeting. The Court found that there was procedural breach. The Board ought to have given the Applicant a reasonable opportunity to consider and deal with the new photomontage produced by PlanD at the meeting. However, the Court should not allow JR or grant relief on this ground for the reasons that (i) the Applicant’s consultant had not suggested that the new photomontage was wrong or inaccurate after having full opportunity to consider it; (ii) the new photomontage had no bearing on the view taken by the Board eventually; and (iii) even if the issue was to be remitted for fresh consideration, the Board would not have come to any different conclusion;
- (f) Ground 6 (Misunderstanding of the TPB Guidelines No. 41 on Visual Impact Assessment) – the rejection reason as to “no adverse visual impact” given by the Board should be read in the context of the relevant discussions in the RNTPC Paper and the deliberation in the meeting, which showed that the standard adopted by the Board was to demonstrate no “substantial” adverse visual impact, but not “no” adverse visual impact at all;

- (g) Ground 7 (“Wednesbury Unreasonableness”) – regarding the technical aspects in visual, landscape and nature conservation impacts, the Court viewed that it was tantamount to re-arguing the entire application before the Court which was not the correct approach in a JR. There was ample basis for the Board to arrive at the decision on the totality of the materials before it. It was open to the Board to give as one of its reasons for rejecting the Application that its approval would set an undesirable precedent taking into account the side-effects of approving an application with fundamental objections; and
- (h) Ground 8 (Copying of Reasons) – regarding the argument on wholesale adoption of the proposed rejection reasons in the RNTPC Paper, the Court found from the minutes of the meeting that the Board had independently addressed its mind to the questions before it and the representations made by the Applicant and there was one rejection reason amended by the Board.

7. Members noted the judgment on the JR application and agreed that the Secretary would represent the Board in all matters relating to the JR and the subsequent appeal, if any, in the usual manner.

(iii) Abandonment of Town Planning Appeal

Town Planning Appeal No. 7 of 2018

Proposed Animal Boarding Establishment in “Green Belt” Zone, Lot 943 RP in D.D.

119, Kung Um Road, Yuen Long

Application No. A/YL-TYST/874

[Open Meeting] [The item was conducted in Cantonese.]

8. The Secretary reported that an appeal had been abandoned by the appellant of his own accord. Town Planning Appeal No. 7/2018 was received by the Appeal Panel (Town Planning) (TPAB) on 20.8.2018 against the decision of the Town Planning Board on 8.6.2018 to reject on review an application for proposed animal boarding establishment at a site zoned “Green Belt” on the then draft Tong Yan San Tsuen Outline Zoning Plan No. S/YL-TYST/11.

9. The appeal was abandoned by the appellant on 31.3.2021. On 27.4.2021, the TPAB formally confirmed that the appeal was abandoned in accordance with Regulation 7(1) of the Town Planning (Appeals) Regulations of the Town Planning Ordinance.

10. Members noted the abandonment of the appeal.

(iv) Abandonment of Town Planning Appeal

Town Planning Appeal No. 3 of 2020

Proposed Office, Shop and Services and Eating Place in “Residential (Group A)” (“R(A)”) Zone and an area shown as ‘Road’, 16-94 Pan Hoi Street and 983-987A King’s Road, Quarry Bay, Hong Kong

Application No. A/H21/151

[Open Meeting] [The item was conducted in Cantonese.]

11. The Secretary reported that an appeal had been abandoned by the appellant of his own accord. Town Planning Appeal No. 3/2020 was received by the Appeal Panel (Town Planning) (TPAB) on 9.7.2020 against the decision of the Town Planning Board on 17.4.2020 to reject on review an application for a proposed development for office, shop and services and eating place at a site zoned “Residential (Group A)” on the approved Quarry Bay Outline Zoning Plan No. S/H21/28.

12. The appeal was abandoned by the appellant on 23.4.2021. On 26.4.2021, the TPAB formally confirmed that the appeal was abandoned in accordance with Regulation 7(1) of the Town Planning (Appeals) Regulations of the Town Planning Ordinance.

13. Members noted the abandonment of the appeal.

(v) Appeal Statistics

14. The Secretary reported that as at 30.4.2021, a total of seven cases were yet to be heard by the Appeal Board Panel (Town Planning) and five appeal decisions were outstanding. Details of the appeal statistics were as follows:

Allowed	36
Dismissed	166
Abandoned/Withdrawn/Invalid	208
Yet to be Heard	7
Decision Outstanding	5
Total	422

Sha Tin, Tai Po and North District

Agenda Items 3 and 4

[Open meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-KLH/593

Proposed House (New Territories Exempted House - Small House) in “Agriculture” Zone,
Lot 858 S.A ss.1 in D.D. 9, Yuen Leng Village, Tai Po

Review of Application No. A/NE-KLH/594

Proposed House (New Territories Exempted House - Small House) in “Agriculture” Zone,
Lot 858 S.B ss.2 in D.D. 9, Yuen Leng Village, Tai Po
(TPB Paper No. 10737)

[The items were conducted in Cantonese.]

15. Members noted that the two review applications each for a proposed House (New Territories Exempted House - Small House) were similar in nature and the application sites (the Sites) were located adjacent to each other within the same “Agriculture” (“AGR”) zone, and agreed that the applications could be considered together.

Presentation and Question Sessions

16. The following representatives from the Planning Department (PlanD) and the applicants’ representatives were invited to the meeting at this point:

PlanD

- Ms Jessica H.F. Chu - District Planning Officer/Shu Tin, Tai Po and North (DPO/STN)
- Mr Tony Y.C. Wu - Senior Town Planner/Country Park Enclaves

Applicants

Rocky Fung Surveying Company -

- Mr Fung Ho Kee - Applicants' representative of both applications
- Mr Ip Kwoon Fat - Applicant's representative of application No. A/NE-KLH/594

17. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited PlanD's representative to brief Members on the review applications.

18. With the aid of a PowerPoint presentation, Ms Jessica H.F. Chu, DPO/STN, PlanD briefed Members on the background of the review applications including the consideration of the applications by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10737 (the Paper).

[Dr Frankie W.C. Yeung joined the meeting during PlanD's presentation.]

19. The Chairperson then invited the applicants' representatives to elaborate on the review applications.

20. With the aid of the visualiser, Mr Fung Ho Kee, the applicants' representative, made the following main points:

- (a) the Sites were outside the "Village Type Development" ("V") zone but within the village 'environs' ('VE');

- (b) Yuen Leng Village was an independent village and cross-village Small House applications in Kau Lung Hang and Tai Wo Villages were not allowed. It was therefore unfair to the villagers of Yuen Leng Village in that PlanD also took into account the land availability for Small House developments in Kau Lung Hang and Tai Wo Villages in assessing applications for Small House developments for Yuen Leng Village;
- (c) it was difficult to acquire vacant land for Small House development in Yuen Leng Village. Some of the vacant land were privately owned by other villagers and were used for gardens or parking and would unlikely be sold. As Yuen Leng Village was located within the water gathering grounds (WGGs), those vacant land which were close to watercourse could not be used for Small House development as septic tanks were required to be located away from the watercourse of not less than 30m. Moreover, some land within the “V” zone were owned by Tso/Tong and were not available for Small House developments. Some other land were currently occupied by old village houses. Only about 1% to 2% of land in the village were government land. It was estimated that the land available within Yuen Leng Village could only accommodate about 30 Small House sites. It was unreasonable to reject the application on the ground that land was still available within the “V” zone of Yuen Leng, Kau Lung Hang and Tai Wo; and
- (d) the Sites were not suitable for rehabilitation for cultivation and other agricultural purposes. The Sites, which had been left abandoned for years, were small and currently hard-paved. There was also no water supply for the purpose of irrigation. Fallow arable land could be found in the southeast of the village.

21. Mr Ip Kwoon Fat, the applicant's representative of application No. A/NE-KLH/594, said that he was the Village Representative of Yuen Leng Village and reiterated that it was difficult to acquire private land in the village. PlanD should not include Kau Lung Hang and Tai Wo Villages when estimating the land availability for developments for Yuen Leng Village as cross-village application was not allowed. Also, it should be noted that part of the 'VE' had

been zoned as “Green Belt” and new development would not be permitted. The farming activities at the Sites and the nearby area had been abandoned for nearly 40 years. The chance for agricultural rehabilitation was slim as there was hardly any water supply for irrigation.

22. As the presentations from PlanD’s representative and the applicants’ representatives had been completed, the Chairperson invited questions from Members.

Land Available for Small House Developments

23. Noting from the applicants’ representatives’ claim that no cross-village Small House application was allowed for Yuen Leng villagers, the Chairperson and a Member asked whether there was sufficient land to meet the demand for Small House developments in Yuen Leng Village. Ms Jessica H.F. Chu, DPO/STN, PlanD explained that since Yuen Leng and Kau Lung Hang Villages shared the same ‘VE’ as advised by the Lands Department (LandsD) and the Sites fell within an area where the ‘VE’ of Yuen Leng and Kau Lung Hang Villages overlapped with that of Tai Wo Village, the “V” zones of the three villages would be taken into account when estimating the land available for Small House developments. Based on the latest estimate by the PlanD, the land available within the “V” zones of the three villages would be able to meet the outstanding Small House applications from the concerned villages. For Yuen Leng and Kau Lung Hang sharing the same ‘VE’, there were about 122 outstanding Small House applications and the land available within the concerned “V” zones could accommodate about 240 Small House developments. According to the information provided by LandsD, some Small House applications in the “V” zone of Kau Lung Hang Village were from Yuen Leng villagers.

24. A Member asked whether the Government accepted cross-village Small House applications. Ms Jessica H.F. Chu, DPO/STN, PlanD said that all cross-village applications would be processed by the LandsD in accordance with the established mechanism. To her understanding, LandsD would consult the respective Village Representative when a cross-village Small House application was received.

25. Mr Ip Kwoon Fat, the applicant’s representative, supplemented that while Yuen Leng villagers could not make cross-village applications to Tai Wo and Kau Lung Hang Villages, Yuen Leng Village accepted cross-village applications from other villages. As such, the land within Yuen Leng Village had almost been used up for Small House developments.

26. Mr Andrew C.W. Lai, the Director of Lands (D of Lands), supplemented that the District Lands Offices (DLOs) of LandsD would check whether the applicant was an eligible indigenous villager upon receipt of a Small House application. In processing a cross-village application, DLO would consult the villagers by posting notices in the two respective villages. The acceptance of such cross-village application would be subject to the customary practice of each village. Local objection would be one of the factors to be taken into account by DLO in considering the Small House application. If a village committee had reached a decision not to accept Small House applications from other villages, cross-village applications in those villages would unlikely be approved by DLOs. As regards the practices of the three concerned villages, namely Yuen Leng, Kau Lung Hang and Tai Wo, for handling cross-village Small House applications, he did not have the information in hand.

[Post-meeting Note: Based on the records of District Lands Office/Tai Po, the village committees of the three villages concerned adopted different practices when handling 'cross village' Small House applications. In short, Yuen Leng Village would handle such applications based on their individual merits. Kau Lung Hang Village in general did not accept such applications but those from indigenous villagers of Yuen Leng Village would be exceptionally considered if stipulated conditions were met. Tai Wo Village did not have an established practice in processing such applications.]

27. In response to a Member's enquiries, Ms Jessica H.F. Chu, DPO/STN, PlanD said that the designation of "V" zone would not imply that sales of land to villagers of other villages would be prohibited. As regards the question why some Small House grant applications under processing by LandsD were located in areas considered not suitable for Small House development by PlanD, Ms Chu said that it was up to the applicant to choose where to build the Small House in the "V" zone and make an application to LandsD. For PlanD, in making an estimate on the land available for Small House development, the established practice was to discount those areas which were not suitable for building Small Houses, such as tree clusters or steep slopes.

28. A Member asked how the boundaries of the three concerned villages were delineated. Ms Jessica H.F. Chu, DPO/STN, PlanD said that the subject applications involved two 'VE', one for Kau Lung Hang and Yuen Leng Villages and the other for Tai Wo Village. 'VE' generally

referred to the area within a radius of 300 feet from the edge of the last village type house built in the recognised village before the introduction of the Small House Policy on 1.12.1972. As for the designation of “V” zone under the OZP, a host of planning considerations including but not limited to the local topography, existing settlement pattern, approved and outstanding Small House applications, Small House demand forecast, etc. would be taken into account.

29. Mr Ip Kwoon Fat, the applicant’s representative, supplemented that the three villages could be distinguished by physical features. Yuen Leng Village was delineated from Tai Wo and Kau Lung Hang Villages by an access road to the south and a watercourse to the north respectively, which was the same as the village boundary for Rural Representative Election.

30. In response to a Member’s enquiry, Ms Jessica H.F. Chu, DPO/STN, PlanD said that there were 34 similar applications in close proximity to the Sites with 17 cases approved and 17 cases rejected. Of the 17 approved applications, seven were approved before criterion (i) of the Interim Criteria requiring sites within WGG be connected to the existing/planned sewerage system came into effect on 3.8.2002. Eight applications were approved between 2004 and 2010 before the planned sewerage scheme for Yuen Leng Village was degazetted on 29.10.2010. The remaining two applications involving application sites straddling both “V” and “AGR” zones were approved in 2012 and 2015 respectively and the Environmental Protection Department and Water Supplies Department had no objection to the applications provided that the construction of Small House development should only commence after the completion of the public sewerage network. Amongst the 17 rejected applications, 12 were considered before the Board’s adoption of a more cautious approach in 2015. They were rejected mainly for being not able to be connected to the planned sewerage system. The five remaining cases were rejected after the Board’s adoption of a more cautious approach for reasons including that land was still available within the “V” zone for Small House development. Two of them involved a proposal for connection with a planned public sewerage system which, however, had been degazetted with no fixed programme for implementation. The other three proposed a connection with an existing public sewer but were rejected having regard to the availability of land within the “V” zone for Small House development. The planning circumstances for rejection of those three similar applications (No. A/NE-KLH/543, 570 and 595) were applicable to the current applications.

31. A Member asked Mr Ip Kwoon Fat, the applicant’s representative, when he bought

the Site. Mr Ip said that he bought the land in around 2000. In response to a Member's enquiries, Mr Ip said that it was his understanding that the Site could be used to build Small Houses and he had not paved the Site.

32. In response to a Member's enquiry, Ms Jessica H.F. Chu, DPO/STN, PlanD said that the access road to the south of Yuen Leng Village fell partly within private land and partly within government land.

Planning Intention of "AGR" Zone

33. The Chairperson said that one of the rejection reasons was that the proposed Small House developments were not in line with the planning intention of the "AGR" zone. However, it was noted in the Paper that the Sites were currently hard paved and the Urban Design and Landscape Section of PlanD did not anticipate any adverse landscape impacts arising from the proposed developments. As such, she enquired whether the Sites had any potential for agricultural rehabilitation and whether the proposed Small Houses could be considered as compatible with the surrounding environment. Ms Jessica H.F. Chu, DPO/STN, PlanD said that the Agriculture, Fisheries and Conservation Department (AFCD) advised that although the Sites were currently paved, there were active agricultural activities in the vicinity, and agricultural infrastructures such as road access and water source were available. The Sites could be used for agricultural activities such as greenhouses and plant nurseries. As there were existing Small Houses in the vicinity of the Sites, she agreed that the proposed Small Houses were compatible with the surrounding environment.

34. As Members had no further question to raise, the Chairperson said that the hearing procedure for the review applications had been completed. The Board would further deliberate on the review applications in the absence of the applicants' representatives and inform the applicants of the Board's decisions in due course. The Chairperson thanked the representatives of the applicants and PlanD for attending the meeting. They left the meeting at this point.

[Dr Frankie W.C. Yeung left the meeting during the question-and-answer session.]

Deliberation Session

35. The Chairperson briefly recapitulated RNTPC's reasons for rejecting the applications that the proposed developments were not in line with the planning intention of the "AGR" zone and land was still available within the "V" zone of Yuen Leng, Kau Lung Hang and Tai Wo for Small House development. Regarding the planning intention of "AGR" zone, AFCD noted that the Sites were currently hard paved but still considered that they possessed potential for agricultural rehabilitation. As the Sites fell entirely within an area where the 'VE' of Yuen Leng and Kau Lung Hang Villages overlapped with that of Tai Wo Village, it was PlanD's established practice to take into account the land available of all three villages when estimating the land available for Small House developments.

Land Available for Small House Developments

36. Some Members raised concerns on the difficulty of cross-village Small House applications and PlanD's estimation of land available for Small House developments. They noted that although Yuen Leng Village fell within the same 'VE' with Kau Lung Hang Village which overlapped with that of Tai Wo Village, some land available for Small House developments in the said 'VE' might not be able to be used by the Yuen Leng villagers as they could not make cross-village applications to the other two villages. In assessing the subject applications, consideration should be given to whether there was scope to review PlanD's estimation of land available for Small House development by taking into account the village boundary, in particular, when the villages fell within the same 'VE'. A Member considered that as it was not clear whether cross-village application was possible for the subject applications, it might warrant a special consideration for the applications. Another Member opined that as land availability had been an important consideration in considering planning applications for Small House development, the applicants should provide more information to justify their claims and allow the Board to have a more comprehensive consideration.

37. Most of the Members, on the other hand, indicated that in assessing the subject applications, the receptiveness or otherwise of the concerned villages to cross-village applications should not be taken into consideration and the established practice adopted by PlanD for estimating land available for Small House development should not be changed. One Member pointed out that RNTPC had been dealing with planning applications for Small House

development involving cross-village applications. If the cross-village application did not involve any government land, local villagers would unlikely object to the applications. In assessing planning applications for Small House developments, PlanD had been adopting the current approach in the estimation of land available for Small House development. It would be unfair to those previously rejected planning applications if the subject applications were given special consideration. Another Member was concerned that if the subject applications were given special consideration, it was possible that the Board's decision on rejecting previous similar planning applications would be subject to legal challenges. It was noted that there was still land available within Yuen Leng Village for Small House development. Yet, the applicants did not provide any written submission or evidence to justify their review applications. The approval of the current applications would set an undesirable precedent. A Member said that it would also encourage similar applications within the same 'VE' and would have implications on the established mechanism in handling such similar applications.

38. Regarding PlanD's estimation of land available for Small House development, the Vice-chairperson said that it was based on the figures of outstanding Small House applications and 10-year Small House demand forecast within a 'VE' provided by LandsD. It would be imprudent to change PlanD's estimation for assessing the subject applications. The receptiveness or otherwise of the concerned villages to cross-village applications had not been a relevant consideration for the Board to consider planning applications for Small House development. To go into the preferences of individual villages could open room for manipulation, hence risky. It was the Board's intention to concentrate Small House developments within the "V" zones. If land within the "V" zone could no longer accommodate the outstanding applications for Small House development, the "V" zone could be reviewed in accordance with the established mechanism.

39. In response to a Member's enquiry, the Chairperson said that while land ownership was not a material planning consideration for considering planning applications for Small House developments, the Board would consider whether there was land available for such developments within the "V" zones. Mr Andrew C.W. Lai, D of Lands, added that the Board might also consider whether the Sites were suitable for Small House developments apart from considering the figures of outstanding Small House applications and 10-year Small House forecast. The Secretary supplemented that apart from the Board's adoption of a more cautious approach, sympathetic consideration would be given to whether the sites were located close to the existing

village clusters or with previous planning approvals. Mr Ivan M.K. Chung, the Director of Planning, remarked that when processing planning applications for Small House development, the applications would be assessed in accordance with the Interim Criteria and the figures of outstanding Small House applications and the 10-year Small House demand forecast provided by LandsD. Cross-village applications, which might sometimes involve different OZPs, had not been a relevant consideration for assessing those planning applications.

Planning Intention of “AGR” Zone

40. Some Members considered that the Sites, which had been hard paved, would unlikely be possible for agricultural rehabilitation.

41. Other Members agreed with the advice of AFCD that the Sites had potential for agricultural rehabilitation in view of the availability of agricultural infrastructures. They also raised concern that the approval of the applications might encourage people to pave the nearby agricultural land for development.

42. The Chairperson summed up the discussion that most of the Members agreed to maintain RNTPC's decisions to reject the applications. As it was the intention of the Board to concentrate the Small House developments within the “V” zone, the consideration of whether there was sufficient land to meet the Small House demand would be important in considering the planning applications. Whilst the applicants' concern on cross-village application was noted, the meeting considered that land ownership and receptiveness or otherwise of the concerned villages to cross-village applications should not be taken into account in considering planning applications for Small House development. For the current applications, PlanD estimated that land was still available within the “V” zones of Yuen Leng, Kau Lung Hang and Tai Wo to meet the outstanding Small House applications. Although AFCD advised that the Sites had potential for agricultural rehabilitation, it was noted that some Members had expressed that its potential was arguable given the existing condition of the Sites. To better reflect the Board's discussion, the Chairperson suggested that the rejection reason relating to land availability would be mentioned first as the major reason. Members agreed.

43. After deliberation, the Board decided to reject the applications on review for the following reasons:

- “ (a) first and foremost, land is still available within the “Village Type Development “ (“V”) zone of Yuen Leng, Kau Lung Hang and Tai Wo which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services; and
- (b) the proposed development is not in line with the planning intention of the “Agriculture” zone, which is 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. There is no strong planning justification in the submission for a departure from the planning intention. ”

[Messrs Thomas O.S. Ho, Alex T.H. Lai and Ricky W.Y. Yu left the meeting during the deliberation.]

[Dr C.H. Hau left the meeting temporarily at this point.]

Tuen Mun and Yuen Long West District

Agenda Item 5

[Open meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-LFS/386

Proposed Filling of Land and Pond in “Coastal Protection Area” Zone, Lots 1945 S.B RP and 1945 S.C in D.D.129, Lau Fau Shan, Yuen Long

(TPB Paper No. 10739)

[The item was conducted in Cantonese.]

Presentation and Question Sessions

44. The following representative from the Planning Department (PlanD), the applicant and the applicant's representative were invited to the meeting at this point:

Mr Kepler S.Y. Yuen - District Planning Officer/Tuen Mun and Yuen Long West (DPO/TMYLW), PlanD

Mr Lam Kuen - Applicant

Mr Chen Xiong Kai - Applicant's representative

45. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited PlanD's representative to brief Members on the review application.

46. With the aid of a PowerPoint presentation, Mr Kepler S.Y. Yuen, DPO/TMYLW, PlanD briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10739 (the Paper).

47. The Chairperson then invited the applicant to elaborate on the review application.

48. With the aid of the visualiser, Mr Lam Kuen, the applicant, made the following main points:

- (a) he was the Vice-chairman of the Ping Shan Rural Committee ;
- (b) there was an outbreak of dengue fever in Lau Fau Shan. The Yuen Long District Office of Home Affairs Department requested the villagers to be well-prepared for preventing dengue fever. It was his responsibility to apply for filling the application site (the Site) to protect the villagers' health. There were two large-scale pigsties near the Site and the livestock waste was discharged into the Site, which became the breeding ground of dengue fever with severe mosquito infestation;

- (c) the Site was not a pond/fish pond per se and there was only the accumulation of stagnant water on vacant field. The proposed filling of land and pond was not for any development. He questioned why other developments such as a large-scale hydroponic farm were allowed in the “Coastal Protection Area” (“CPA”) zone; and
- (d) the mosquito problem had not been resolved even with the mosquito control measures taken by the Food and Environmental Hygiene Department (FEHD). The proposed land/pond filling was to remove stagnant water next to the pigsty to eliminate mosquito breeding.

[Mr Franklin Yu arrived to join the meeting at this point.]

49. As the presentations from PlanD’s representative and the applicant had been completed, the Chairperson invited questions from Members.

50. The Chairperson and some Members raised the following questions to PlanD’s representative:

- (a) whether ‘Agricultural Use’ was always permitted on the Site;
- (b) whether the Site was a pond and whether there was any watercourse in the nearby area with water flowing into the Site;
- (c) the use of the surrounding area of the Site;
- (d) whether the livestock waste from the pigsties was required to be treated before discharging to the nearby watercourse which was leading to Deep Bay; and
- (e) details of the enforcement case concerning the Site;

51. In response, Mr Kepler S.Y. Yuen, DPO/TMYLW, PlanD made the following main

points:

- (a) 'Agricultural Use (other than Plant Nursery)' including fish farming was always permitted on the Site;
- (b) as shown on the aerial photos, the Site, which was near a watercourse, had been a pond for years;
- (c) the Site was adjacent to a "Recreation" zone in which various brownfield operations, such as parking of vehicles and open storage, and scattered residential dwellings could be found. A pigsty was also located to its west within the same "CPA" zone;
- (d) the pigsties were subject to the licensing requirements under the Public Health (Animals and Birds) Ordinance enforced by the Agriculture, Fisheries and Conservation Department and the discharge of livestock waste was subject to the Waste Disposal Ordinance administered by the Environmental Protection Department. The livestock waste was required to be treated by such methods as dry muck-out, wet muck-out and biological assimilation; and
- (e) part of the Site was subject to planning enforcement action and the unauthorised development (UD) involved filling of pond. Enforcement Notice was issued on 9.10.2020 and the UD discontinued. Reinstatement Notice (RN) was issued on 21.10.2020 requiring removal of the fill materials from the pond by 21.1.2021. Upon expiry of the RN, site inspection on 25.1.2021 revealed that the fill materials had not yet been removed, and hence the RN was not yet complied with. If the application was approved, the Planning Authority would review the enforcement action to be taken on the Site.

52. The Chairperson and some Members raised the following questions to the applicant:

- (a) land ownership of the Site, and whether the Site had been used as fish pond;
- (b) location of Fu Cho Tsuen and the population there;
- (c) how long the pigsty next to the Site had been operating; and
- (d) the measures that the applicant had taken to deal with the mosquito problem.

53. In response, Mr Lam Kuen, the applicant, made the following main points:

- (a) the Site was owned by villagers and had not been used as fish pond;
- (b) Fu Cho Tsuen, which was not an indigenous village, was mainly located to the east of the Site across Deep Bay Road. There was a population of about 1,600;
- (c) the pigsty next to the Site had been operating for years; and
- (d) he had asked the land owners to remove the weeds and fill the land so as to prevent puddles. The mosquito problem had not been resolved even with the mosquito control measures taken by FEHD in the vicinity. The proposed land/pond filling was to remove stagnant water next to the pigsty to eliminate mosquito breeding.

54. As Members had no further question to raise, the Chairperson said that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application in the absence of the applicant and the applicant's representative and inform the applicant of the Board's decision in due course. The Chairperson thanked the applicant, the applicant's representative and PlanD's representative for attending the meeting. They left the meeting at this point.

Deliberation Session

55. Members generally recognised the importance of safeguarding public health. However, the applicant had not demonstrated that alternative measures had been adopted in combating the mosquito problem. Should the adjacent pigsty involve any illegal discharge of livestock waste, the applicant might lodge a complaint to relevant government departments for appropriate follow-up action. The approval of the application would set an undesirable precedent for land/pond filling in the “CPA” area. Members also agreed to request FEHD to provide professional advice to the applicant on combating the mosquito problem on the Site. The Secretariat would follow up with FEHD accordingly. Members generally considered that the application could not be supported.

56. After deliberation, the Board decided to reject the application on review for the following reasons:

- “ (a) the proposed filling of land and pond is not in line with the planning intention of the “Coastal Protection Area” (“CPA”) zone which is to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment with a minimum of built development. There is a general presumption against development in this zone. There is no strong planning justification in the submission for a departure from the planning intention; and
- (b) approval of the application would set an undesirable precedent for similar applications for filling of land/pond within the “CPA” zone and the cumulative effect of approving such similar applications would result in a general degradation of the natural environment and landscape of the area. ”

[Mr Daniel K.S Lau left the meeting temporarily and Mr Andy S.H. Lam left the meeting during the deliberation.]

Agenda Item 6

[Open meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-PN/64

Temporary Service Area (including Vehicular Access, Manoeuvring Space, Car Parking and Loading and Unloading Bay) for a Period of 3 Years in “Agriculture” Zone and area shown as ‘Road’, Lot 8 (Part) in D.D.135 and adjoining Government Land, Sheung Pak Nai, Yuen Long (TPB Paper No. 10740)

[The item was conducted in Cantonese.]

Presentation and Question Sessions

57. The following representative from the Planning Department (PlanD) and the applicant’s representatives were invited to the meeting at this point:

Mr Kepler S.Y. Yuen	-	District Planning Officer/Tuen Mun & Yuen Long West (DPO/TMYLW), PlanD
<i>Topgold Holdings Limited</i>	-]	
Mr Hui Po Yuet]]	
<i>Aikon Development</i>]]	
<i>Consultancy Limited</i>	-]	Applicant’s representatives
Ms Au Wing Yee]]	
Mr Chan Chun Yin]]	

58. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited PlanD’s representative to brief Members on the review application.

59. With the aid of a PowerPoint presentation, Mr Kepler S.Y. Yuen, DPO/TMYLW, PlanD briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10740 (the Paper).

60. The Chairperson then invited the applicant's representatives to elaborate on the review application.

61. With the aid of a PowerPoint presentation, Ms Au Wing Yee, the applicant's representative, made the following main points:

- (a) the applied use was solely intended to regularise and improve the existing traffic arrangement at the application site (the Site) in order to support the operation of the storage use adjoining the Site. No storage use, or other new uses or developments were involved in the Site;
- (b) the storage use on the adjoining site was in operation before gazettal of the Sheung Pak Nai and Ha Pak Nai Interim Development Permission Area (IDPA) Plan on 14.9.1990 and should be regarded as a tolerated use. The adjoining site was currently occupied by two separate operators with different parking requirements and traffic arrangements. The Site served as the only access point for the tolerated use on the adjoining site;
- (c) the applicant had no intention for intensification of the tolerated use. Except for the area considered necessary to support traffic arrangement for the tolerated use, all the remaining area, accounting for more than 20% (about 535m²) of the total area of the Site, would be designated as landscaped areas:
- (d) in response to the rejection reason of being not in line with the planning intention of the "Agriculture" ("AGR") zone, the applicant respected such intention and the sole intention of the application was to regularise and improve the existing traffic arrangement of the tolerated use on the adjoining site. There would be no additional traffic flow or additional loading/unloading activities. No storage use or new structures would be involved. Temporary use would not frustrate the long-term planning intention of the "AGR" zone;

- (e) regarding the potential traffic impact, the parking provision and manoeuvring spaces for the two separate operators on the adjoining site had to be considered and proposed separately. Traffic study had been conducted to assess different scenarios and identify the most suitable site area for the two separate operators on the adjoining site. The existing traffic arrangement of the tolerated use on the adjoining site would remain unchanged upon approval of the subject application;
- (f) as regards the potential environmental impact, it was noted that the Environmental Protection Department received no substantiated complaint pertaining to the Site in the past three years. Upon approval of the subject application, the applicant was willing to increase the height of fencing surrounding the Site to no less than 2.5m, alter or shorten operation hours on the Site and the adjoining site, phase out the usage of heavy goods vehicles and only use medium goods vehicles and/or light goods vehicles, and reduce the total number of vehicular trips going into and out of the Site to a maximum of twice per day;
- (g) on the potential landscape impact, the application would not involve any additional vegetation clearance or additional hard paving on the Site. More than 20% of the site area would be designated as landscape areas. The applicant was willing to comply with any approval conditions as the Board and other government departments considered fit for the application; and
- (h) it was unlikely that there will be any planning applications having similar background/nature. Approval of the application would not create any undesirable precedent.

62. Mr Hui Po Yuet, the applicant's representative, supplemented that the number of vehicular trips going into and out of the Site was only twice per day, which would not generate adverse impact on Nim Wan Road. The application was supported by the Village Representative of Sheung Pak Nai Tsuen and Ha Tsuen Rural Committee. He said that the Site

had been used for storage use since 1990s.

63. As the presentations from PlanD's representative and the applicant's representatives had been completed, the Chairperson invited questions from Members.

64. The Chairperson asked whether the use of the adjoining site was regarded as an "existing use". A Member also enquired whether the current use of the adjoining site could be tolerated as it appeared to be different from that in 1990. In response, Mr Kepler S.Y. Yuen, DPO/TMYLW, PlanD said that a use which was in existence immediately before the gazette date of the IDPA Plan would be regarded as an existing use. According to the covering Notes of the extant Outline Zoning Plan (OZP), no action was required to make the use of any land or building which was in existence immediately before the first publication in the Gazette of the notice of the IDPA Plan conform to the OZP, provided such use had continued since it came into existence. Any material change of such use or any other development (except minor alteration and/or modification to the development of the land or building in respect of such use which was always permitted) must be always permitted in terms of the OZP or in accordance with a permission granted by the Board. For the subject application, it was noted that the adjoining site, which was currently occupied by warehouses, was used for storage use without any structures before the gazette date of the IDPA Plan as shown on the aerial photo taken in 1990. The Secretary supplemented that as shown on Plan R-2 of the Paper, the current use of warehouses of the adjoining site was also different from that revealed by the land use survey conducted by PlanD in March 1992. As such, the current use of warehouses should not be regarded as an existing use tolerated under the Town Planning Ordinance.

65. In response to a Member's enquiry, Mr Kepler S.Y. Yuen, DPO/TMYLW, PlanD said that the Site and an area to the northeast of the Site were subject to enforcement action against unauthorised development (UD) involving storage use (including deposit of containers) as shown on Plan R-2. It should be noted that intensification of an existing use was not allowed unless permitted in terms of the OZP Plan or in accordance with a permission granted by the Board. Even if a use was proposed to support an existing use, it would be subject to the prevailing statutory planning requirements.

66. A Member asked the action to be taken by the applicant to ensure that the applied use would not frustrate the long-term planning intention of the "AGR" zone. Ms Au Wing Yee, the

applicant's representative, said that the application would not involve any additional vegetation clearance or additional hard paving on the Site. The applicant had discontinued the operation on the Site in response to the enforcement action. Reinstatement Notice was recently issued to the applicant requiring removal of the fill materials and grassing the land. If the application was approved, the applicant would reinstate 20% of the hard-paved area for landscaping and would reinstate the whole site upon the expiry of the three-year approval period.

67. Noting that the adjoining site had been used for storage use for a long time, a Member queried why the applicant sought planning permission for using the Site as a service area at the present stage and whether vehicle manoeuvring could be carried out within the adjoining site. In response, Ms Au Wing Yee, the applicant's representative, said that the subject application was solely intended to regularise and improve the existing traffic arrangement at the Site in order to support the current operation of the storage use at the adjoining site and not to affect the traffic of Nim Wan Road. A traffic study had been conducted to assess different scenarios and identify the most suitable site area for the two separate operators on the adjoining site. Mr Hui Po Yuet, the applicant's representative, said that vehicle manoeuvring could not be carried out within the adjoining site.

68. In response to a Member's enquiry, Mr Hui Po Yuet, the applicant's representative, said that the applicant had purchased the subject lot covering the Site for storage of machinery since 2016.

69. As Members had no further question to raise, the Chairperson said that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application in the absence of the applicants' representatives and inform the applicant of the Board's decision in due course. The Chairperson thanked the applicant's representatives and PlanD's representative for attending the meeting. They left the meeting at this point.

[Dr C.H. Hau rejoined the meeting during the question and answer session.]

70. As Agenda Item 7 was scheduled for 2:30 p.m., the Chairperson suggested and Members agreed to have a short lunch break at this juncture and then proceed to Agenda Item 7 first before continuing with the deliberation of Agenda Item 6.

71. The meeting was adjourned for lunch break at 2:15 p.m.

[Mr. Lincoln L.H. Huang, Dr Lawrence K.C. Li and Mr Y.S. Wong left the meeting at this point.]

72. The meeting was resumed at 2:40 p.m.

73. The following Members and the Secretary were present at the resumed meeting:

Permanent Secretary for Development
(Planning and Lands)
Ms Bernadette H.H. Linn

Chairperson

Mr Wilson Y.W. Fung

Mr Stephen L.H. Liu

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Dr Lawrence W.C. Poon

Dr C.H. Hau

Professor T.S. Liu

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Franklin Yu

Mr Stanley T.S. Choi

Mr L.T. Kwok

Mr Daniel K.S. Lau

Ms Lilian S.K. Law

Mr K.W. Leung

Professor John C.Y. Ng

Dr Roger C.K. Chan

Dr Venus Y.H. Lun

Mr C.H. Tse

Dr Conrad T.C. Wong

Chief Traffic Engineer (New Territories West)
Transport Department
Ms Carrie K.Y. Leung

Chief Engineer (Works)
Home Affairs Department
Mr Gavin C.T. Tse

Principal Environmental Protection Officer (Metro Assessment)
Environmental Protection Department
Dr Sunny C.W. Cheung

Assistant Director (Regional 3)
Lands Department
Mr Alan K.L. Lo

Director of Planning
Mr Ivan M.K. Chung

[Mr Daniel K.S. Lau returned to join the meeting at this point.]

Tuen Mun and Yuen Long West District

Agenda Item 7

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/TM/530

Columbarium Use in “Government, Institution or Community” Zone, Lot 2011 (Part) in D.D.

132, Tuen On Lane, Tuen Fu Road, Fu Tei, Tuen Mun

(TPB Paper No. 10738)

[The item was conducted in Cantonese.]

74. The Secretary reported that the application was for a columbarium use in Tuen Mun and the following Members have declared interests on the application:

Mr Lincoln L.H. Huang - being a member of the Private Columbaria Appeal Board (PCAB);

Mr K.K. Cheung - his firm being the legal advisor of the Private Columbaria Licensing Board (PCLB); and

Mr Alex T.H. Lai - being a past member of the PCAB, and his former firm being the legal advisor of the PCLB.

75. Members noted that Mr K.K. Cheung had tendered an apology for being unable to attend the meeting and Messrs Lincoln L.H. Huang and Alex T.H. Lai had already left the meeting.

Presentation and Question Sessions

76. The following representatives of the Planning Department (PlanD) and the applicant were invited to the meeting at this point:

PlanD

- Mr Kepler S.Y. Yuen - District Planning Officer/Tuen Mun and
Yuen Long West (DPO/TM&YLW)
- Mr Alexander W.Y. Mak - Senior Town Planner/Tuen Mun
(STP/TM)

Applicant

- Gig Lok Monastery (GLM)* - Applicant
- Mr Lam Tin Cheung]
- Mr Liang Rong]
- Mr Ngai Kim Ping]
- Ms Poon Suk Ming]
- Mr Yip Tak Kwong]
- Ms Yip Lai Yin]
- Mr Wong Chi Ying]
- Ms Chen Zixin]
-]]
- Toco Planning Consultants Ltd*] Applicant's Representatives
- Mr Ted Chan]
- Mr Daniel Wei]
- Ms Jacqueline Ho]
-]]
- CKM Asia Ltd*]
- (Traffic Consultant)*]
- Mr Chin Kim Meng]
-]]
- Landes Limited*]
- (Landscape Consultant)*]
- Mr Lam Kwong Leung]

77. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited PlanD's representative to brief Members on the review application.

78. With the aid of a PowerPoint presentation, Mr Alexander W.Y. Mak, STP/TM briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in the TPB Paper No. 10738 (the Paper).

[Mr Stephen Liu left the meeting during PlanD's presentation.]

79. The Chairperson then invited the applicant's representatives to elaborate on the review application.

80. With the aid of visualizer showing some plans and documents, Mr Lam Tin Cheung, the applicant's representative, made the following main points:

- (a) he started to work in GLM in the 1980s and became the Master of GLM in 1995;
- (b) the application was made to satisfy the requirements for their licence application under the Private Columbaria Ordinance (PCO). Only the existing niches that were already sold before the 'pre-cut-off' date under PCO were included in the subject application, and the 613 niches that were built but not yet sold were excluded. They would not apply for any new and unsold niches in GLM in future;
- (c) the application was for regularisation of the 1,567 'pre-cut-off' niches so that the sold niches could be properly taken care of. The operation of the columbarium was not for profit making, and the niches included interred ashes of residents or their family members in Parkland Villas and other surrounding residential developments such as Napa Valley, Siu Hong Court, Fu Tai Estate, Brilliant Garden, South Hillcrest, and Beneville;
- (d) the submission for Chinese Temples Registration for GLM dated 1966 showed that facilities for worshipping (供奉), ancestral place (祖先位) and cremated ash storage (骨灰位) already existed in GLM. At that time, GLM was at a very remote location;

- (e) he understood from the previous Master of GLM that in around the 1960s, there were around 10 odd ashes/urns. The previous Master had allowed ashes to be stored in GLM as a service, for free or at a very low price, to those in need;
- (f) there were a lot of graves in the area, for example, those preserved in-situ near Brilliant Garden, the Lingnan University, and even in Parkland Villas. Some bones were excavated in development sites in the area and they had allowed those to be placed in GLM;
- (g) the shared access of Tuen On Lane was already constructed and used by GLM in the 1990s, before Parkland Villas was developed. Since 2015, they had made special transport and crowd management arrangements which ensured that there was no nuisance created to surrounding residents during the Ching Ming and Chung Yeung Festivals (festival days) periods. They had encouraged family members to minimise visits and worship on festival days and discouraged them from driving to GLM in the shadow periods, i.e. 2 weeks before and after the festival days;
- (h) they had already demolished all structures occupying government land, reinstated and returned the land back to the Government;
- (i) the GLM was at a lower site level than the Parkland Villas and should not be very visible from Parkland Villas, hence columbarium use in GLM would not create any visual impact. In fact, GLM had existed long before the development of Parkland Villas which was only completed some 20 years ago;
- (j) among the total gross floor area (GFA) of about 22,500 sq.ft. in GLM, only about 1,400 sq.ft. was for columbarium use. Other floor space was for religious use of the monastery and the open areas were public space;
- (k) there were other columbarium developments that were located very close to residential developments, and they included Sin Hing Tung (善慶洞) and

Kun Chung Temple (觀宗寺) that were only 28m and 15m respectively from the nearest residential developments; and

- (l) GLM was a Buddhist organization and they had been making donations to various community groups including elderly facilities and orphanage.

81. With the aid of a Powerpoint presentation, Mr Chin Kim Meng, the applicant's representative., made the following main points:

- (a) one reason for rejection of the application was that the application site (the Site) was sharing the same access road with adjoining residential development. Tuen On Lane was a public road which ended as a cul-de-sac serving Parkland Villas, Ching Leung Nunnery (清涼法苑) and GLM. Tuen On Lane was formed in 1998 and had provided vehicular access to GLM since then;
- (b) there were three pedestrian accesses to Parkland Villas. The one near Block 9 (i.e. the block in the northwestern end) was most frequently used by residents as it provided direct access to Tuen Fu Road and was only about four minute-walking distance to the Siu Hong West Rail Station. There was a 10m-level difference between the cul-de-sac at the end of Tuen On Lane and the pedestrian access near Block 9, thus, the pedestrian access to Parkland Villas at the cul-de-sac (near GLM) was not frequently used by the residents;
- (c) there were many examples of columbarium developments sharing the same access road with adjoining developments, including Poh Yea Ching Shea (般若精舍) in Tai Po; Fung Ying Seen Koon (蓬瀛仙館) in Fanling; Po Fook Hill (寶福山) in Shatin and the Diamond Hill Crematorium;
- (d) the Board had also approved a number of columbarium uses that shared vehicular accesses with adjoining residential developments, for example those in the Tsing Shan Tsuen in Tuen Mun, and those at the Kun Chung Temple and Lung Shan Temple (龍山寺) in Fanling. The vehicular

accesses to the Hong Kong Chinese Christian Cemeteries in Pokfulam were also shared with many residential developments;

- (e) the applicant had proposed a secondary pedestrian access from GLM to Castle Peak Road – Lingnan Section to divert pedestrian traffic. The Transport Department (TD) and the Commissioner of Police (CoP) had no adverse comment on the proposed secondary pedestrian access; and
- (f) video clips taken at the access of GLM and the cul-de-sac of Tuen On Lane were shown. The video clips taken on the day of the 2018 Ching Ming Festival showed that there were not much traffic and visitors. However, the video clips taken in the early morning hours on 6.5.2021 showed that school buses and cars had blocked the access of GLM and the cul-de-sac, and the situation was worse than that during Ching Ming Festival.

82. Mr Lam Kwong Leung, applicant's representative, with the aid of visualizer, made the following main points:

- (a) according to the Landscape Master Plan, there were three existing 2-storey buildings on the Site and columbarium was proposed in two of the existing buildings. Green roofs were proposed on the three existing buildings. All existing trees would be preserved, and no tree felling was proposed. New trees were also proposed along the site boundary fronting Parkland Villas;
- (b) regarding the government department's comment that the applicant should not use existing trees as green buffer, the applicant would accept an approval condition to increase tree planting within the Site;
- (c) the section drawing (Drawing R-3 in the Paper) showed that GLM was at a site level some 3m lower than Parkland Villas and GLM was screened by trees of some 13m tall. Along Tuen On Lane, there were other religious institutions which also had a lot of tree plantings as buffer. The applicant was ready to plant more trees within the Site; and

- (d) in gist, the columbarium use in GLM would not create additional visual impacts as it was within existing buildings and there was a lot of landscape buffers from its surroundings. The 2-storey buildings had existed on the Site for a long time and were compatible with the surroundings.

83. Mr Ted Chan, applicant's representative., made the following main points:

- (a) the Board should consider the historical background of the area that GLM existed before Parkland Villas. Only two existing buildings would be involved in columbarium use;
- (b) the application only involved existing niches in GLM which had been providing services to the locals, rather proposing new niches. It was a 'pre-cut-off' columbarium in accordance with the PCO that came into effect in 2017, which meant the existence of the columbarium was recognized by the Government and it just needed to be regularised by relevant applications;
- (c) the current application only involved the 1,567 existing niches, and the 613 unsold niches would not be included, and there would be no future expansion of the columbarium. That would address the public concern whilst being responsible to those who had bought the niches;
- (d) the applicant had addressed and met all the departmental technical requirements including environmental and safety aspects;
- (e) GLM was the only 'pre-cut-off' columbarium within the "Government, Institution or Community" ("G/IC") zone. Therefore, approval of the application would not set a precedent for the "G/IC" zone and would have no implication for potential columbarium development in other religious institutions in the locality such as Ching Leung Nunnery. Sympathetic considerations should be given to approving the application;
- (f) in terms of land use compatibility, GLM had already existed for many years without creating nuisance to the surroundings. GLM had proposed a Traffic

and Crowd Management Plan (TCMP) for the festival days and shadow periods, and had submitted an application for licence to the Food and Environmental Hygiene Department (FEHD) in accordance with PCO to regularised the columbarium;

- (g) it was difficult to have columbarium use with exclusive private access and most cases had shared access, and the need for shared access should not constitute a rejection reason;
- (h) columbarium was a Column 2 use under “G/IC” zone that might be permitted on application to the Board. The Board could impose approval conditions on aspects of landscaping and access; and
- (i) after obtaining planning permission, there would be opportunity for GLM to better communicate with the nearby residents such as sending a clear message that only the existing niches would be kept in GLM.

84. As the presentations from the representatives of PlanD and the applicant had been completed, the Chairperson invited questions from Members.

[Professor John C.Y. Ng left the meeting at this point.]

Buildings and Lease Matters

85. The Chairperson and some Members raised the following questions:

- (a) which structures/buildings in GLM were on government land and whether any of them involved columbarium use;
- (b) whether the proposed columbarium involved unauthorized building works (UBW);
- (c) whether there was information on why the lease of the Site included the ‘no human remains’ condition and whether it was a standard clause under other

leases. Whether applications for columbarium use involving sites with similar lease condition had been approved by the Board; and

- (d) if there was a 'no human remains' clause under the lease, why the Chinese Temples Registration Form (the Registration Form) of the GLM indicated that it was an 'ancestral place'. The meaning of 'ancestral place' whether it only referred to the ancestral tablets not involving storage of human ashes.

86. In response, Mr Kepler S.Y. Yuen, DPO/TM&YLW, made the following main points:

- (a) some structures with niches to the southeast of the Site were erected on government land and they had been removed after 2013. Unlike the previous applications submitted by the same applicant, the Site under the current application only included private land with no government land involved;
- (b) the Buildings Department (BD) advised that there was no record of approved building plans for the related buildings/structures on the Site and whether they involved UBW was subject to investigation by BD. The three existing buildings might involve building licences approved under the lands administration regime;
- (c) it appeared to be common for leases to include clauses which stipulated no grave or no storage of human remains. Some of the applications for columbarium use approved by the Board at the Tsing Shan Tsuen area also had similar 'no human remains' clause under the leases. If planning permission was obtained, the concerned land owners could apply to the Lands Department (LandsD) for lease modification/land exchange/waiver to effect the development proposal which might be subject to payment of land premium/waiver fee; and
- (d) the Site was restricted to private residential with the 'no deposit of human remains' clause under the lease. LandsD had advised that columbarium

and monastery uses were not permitted under the lease and warning letters had been issued. The current lease was registered in the Land Registry in 1961 and there was no information on any lease modifications relating to the Site. Regarding 'ancestral place' stated in the Registration Form, FEHD considered it difficult to interpret the meaning of the term used in 1966 and to confirm whether it meant there was storage of human ashes at GLM at that time.

87. Mr Ted Chan, applicant's representative, supplemented the following main points:

- (a) the Lotus Hall and Lotus Pagoda previously for columbarium use were built below a road along the southeastern boundary of the Site, and those structures were partly on government land. It was estimated that about two-thirds of the niches in GLM were previously on government land and one-third was on private land. Those columbarium structures on government land were subsequently demolished and the niches were relocated into two of the existing buildings. The temporary structures in the northern portion of the Site, near the entrance, would be demolished and that would allow more buffer distance from Parkland Villas;
- (b) the applicant had to apply for lease modification should the Board approve the application, and would follow up on other matters with the relevant authorities such as BD and FEHD; and
- (c) it was sometimes difficult to ascertain whether buildings/structures that were built long time ago, especially those in the New Territories, were authorized or not. It was common for such structures to be tolerated by the Government by charging rates and offering waivers, hence, the uses existing on the Site might be different from those permitted under the lease.

GLM and its Columbarium

88. The Chairperson and some Members raised the following questions:

- (a) whether there was information indicating that columbarium use in GLM existed before it was rezoned “G/IC” and hence, might be treated as an existing use. Whether there was information on the number of niches in 1966 and when the columbarium was increased to the current scale of 1,567 niches;
- (b) what the planning considerations were in 1994 to rezone the area covering the Site to “G/IC”;
- (c) whether the rejection of the columbarium use would affect the current religious institution use of GLM;
- (d) whether ashes of the monks could be stored inside a monastery and whether such use would require planning permission;
- (e) whether there were other religious activities/events at GLM and whether GLM was operating as a non-profit making organisation; and
- (f) any information on the development of Parkland Villas and when it was completed.

89. In response, Mr Kepler S.Y. Yuen, DPO/TM&YLW, made the following main points:

- (a) the Site fell within the Tuen Mun OZP (the OZP) planning scheme area, which was not previously covered by a Development Permission Area (DPA) Plan. Thus, unlike other rural areas covered by DPA Plan, there was no land use freezing survey conducted by PlanD for the Site and no record on whether columbarium use existed in GLM in the 1980s as claimed by the applicant. The Site was rezoned from “Undetermined” (“U”) to “G/IC” in 1994 but there was no information to indicate that GLM involved columbarium use at that time. By making reference to a withdrawn application (No. A/TM/400) previously submitted by the

same applicant in 2010, it was mentioned that there were more than 4,000 niches in GLM with 1,300 niches of them sold at that time. Some of those niches were in the structures on government land along the southeastern boundary of the Site;

- (b) the rezoning of the Site and the surrounding area from “U” to “G/IC” in 1994 had taken into account the existing uses at that time, including GLM and Ching Leung Nunnery, and other Government, institution or community (GIC) facilities planned at that time including a fire station, schools and the Lingnan University and its ancillary facilities as shown on Plans R-1 and R-2;
- (c) according to the Notes of the OZP for “G/IC” zone, ‘religious institution’ was a Column 1 use which was always permitted. In other words, GLM could continue to be used as a religious institution even if the subject application for columbarium use was rejected. In fact, the main monastery building of GLM was excluded from the Site under the application;
- (d) in general, if the number of niches for ashes of monks/nuns that were stored at monasteries/nunneries was of a small scale, it might be considered as ancillary to the religious institution use from planning perspective but it would still need to comply with other building and land requirements. However, since the subject columbarium under application involved 1,567 niches that were sold to the public, it was regarded as a ‘Columbarium’ use which required planning permission; and
- (e) the site of Parkland Villas was rezoned from “U” to “Residential (Group B)” (“R(B)”) in 1994. Development of Parkland Villas was completed in 2000. There was no information at hand on the date of land exchange of the site.

main points:

- (a) when he first arrived in GLM in 1980s, there were limited ashes/urns (say tens of ashes/urns) scattered in about three areas within GLM that were not stored in an orderly manner;
- (b) he understood from the former Master of GLM that there were already sold niches in GLM around the 1980s, they would also help some old people to handle ashes of their family members, and some of the niches were offered free of charge to those in need. When he became Master of GLM since 1995, he also sold some niches but there was no information on the official date when GLM started to sell niches to the public;
- (c) some niches were placed in structures involving government land but those structures (involved about 600 to 700 niches) were subsequently demolished, and those niches were then placed into the existing buildings within GLM;
- (d) contrary to some residents' misunderstanding, they had no plan to build a 5-storey columbarium building;
- (e) regarding the public comments, he pointed out that residents of Parkland Villas only started to raise objection in around 2010. However, they should all along have known that there was columbarium use in GLM as some niches were bought by residents of Parkland Villas since 2000. GLM had been at the Site since 1955 but Parkland Villas was only completed in 2000;
- (f) there was no public complaint received in terms of traffic congestion or poor crowd management during festival days and shadow periods, as they had implemented ways to manage the traffic and crowd by restricting driving to the Site and splitting pedestrian flow on two sides of the pavement during those days. On the contrary, their access had

been blocked by school buses on many occasions. In fact, not many residents used the access near GLM;

- (g) since he became the Master of GLM in 1995, they had organized several religious events each year but only in a small scale (with about 80 to 100 participants) due to limited manpower and lack of space; and
- (h) GLM was registered as a non-profit making organization and the columbarium was not for profit-making. They sold the niches at a relatively low price and they would charge different prices depending on people's affordability. Sometimes they would handle the ashes for free as a Buddhist service for families in need.

91. Some Members further enquired on whether the current application was dealing with the niches currently existing in GLM or involving new niches to be sold; whether there would be financial gain/loss if the application was approved/rejected; whether the sold niches would be allowed to be transferred to other users; whether priority of selling niches would be given to the local communities; and how the ashes/urns would be handled by the applicant if the application was not approved. In response, Mr Lam Tin Cheung, and Mr Ted Chan, the applicant's representatives, made the following main points:

- (a) the application was only for the 1,567 niches already sold. It was not for profit-making. They only wished to do their best and be responsible to those who had bought the niches;
- (b) they would not charge any additional lump sum or recurrent fees to those who had bought the niches, if the application was approved;
- (c) no transfer or re-sell of the existing sold niches would be allowed. Whilst people from the local communities were not given priorities to buy niches in GLM, there were about 490 niches serving local families in Fu Tai Estate, Parkland Villas, South Hillcrest, Beneville, Brilliant Garden etc. They chose the columbarium at GLM as it was in proximity

to their homes and was convenient for them to worship their ancestors;
and

- (d) if the planning application was not approved, GLM would follow the guidelines of FEHD to handle the ashes by contacting all those who had bought niches. However, for the unclaimed ashes, GLM would need to pass them to FEHD for further follow up actions.

Issues related to Private Columbaria Ordinance

92. The Chairperson and some Members raised the following questions:

- (a) whether GLM was one of the ‘pre-cut-off’ columbarium; whether it was a private columbarium in Development Bureau (DEVB)’s list; and whether the subject application was the only columbarium application within the same “G/IC” zone; and
- (b) under the licensing system of PCO, a TCMP would be required to be submitted to address the traffic and crowd management issue. Whether PCLB would seek comments from TD and CoP on the TCMP.

93. In response, Mr Kepler S.Y. Yuen, DPO/TM&YLW, made the following main points:

- (a) GLM was one of the 87 listed private columbaria in DEVB’s Part B list. Under PCO, ‘pre-cut-off’ columbarium referred to those that were in operation and had ashes interred in niches, immediately before 8 am on 18.6.2014. Those columbaria would still need to apply for a licence under PCO, although the requirements might vary as compared to new columbaria. FEHD confirmed that GLM was a ‘pre-cut-off’ columbarium but the number of niches existing at the ‘cut-off’ time had to be further verified. According to FEHD, within the subject “G/IC” zone, GLM was the only columbarium that had submitted application for a licence under PCO;

- (b) according to the Government's policy initiatives announced in 2017 to deal with the Traffic Impact Assessment (TIA) requirements under PCO, operators of 'pre-cut-off' columbarium whose operation only involving niches sold before the PCO came into effect were only required to submit a TCMP, instead of a TIA, for PCLB's approval. PCLB would likely seek TD's advice on the traffic related matters; and
- (c) from land use planning perspective, it was necessary to consider whether the columbarium was compatible in land use terms. Whether it was a 'pre-cut-off' columbarium was not the consideration on land use compatibility.

94. The Chairperson supplemented that 'pre-cut-off' columbarium, like GLM, was still required to apply for planning permission and it did not mean that the Board had to approve all applications involving 'pre-cut-off' columbarium. The Board should consider each planning application from land use planning perspective on its individual merits. Enforcement actions would still be carried out by the relevant authorities, as appropriate.

Land Use Compatibility

95. Some Members raised the following questions:

- (a) whether there was any record of complaint received by the relevant departments on traffic impact and other nuisances generated by the existing operation at GLM during the festival days and shadow periods;
- (b) whether there were other similar applications approved for columbarium use in Tuen Mun and what the planning considerations were for those approved cases. Whether there was a planning strategy for columbarium developments in Tuen Mun and whether Tsing Shan Tsuen was a better location for concentrating columbarium developments;
- (c) what the precedent effect would be if the application was approved; and

- (d) any information on why there were a lot of temples/monasteries in the Tuen Mun area while noting Ching Leung Nunnery was also nearby.

96. In response, Mr Kepler S.Y. Yuen, DPO/TM&YLW, made the following main points:

- (a) relevant government departments had no record of public complaint on traffic impact and other nuisances during the festival days and shadow periods. However, the public comments received reflected that the local communities and stakeholders had grave concerns on the nuisances created by the columbarium use in GLM, especially during festival days and shadow periods;
- (b) as shown on Plan R-1b, the approved columbarium applications in Tuen Mun were mostly located at Tsing Shan Tsuen, to the west of Yeung Tsing Road, with a total of about 30,000 niches approved. One of the planning considerations was that capacity of the road and pedestrian network there was able to handle the visitors' flow during the festival days and shadow periods. Other cases in Tsing Shan Tsuen were rejected mainly due to adverse traffic impact and land use incompatibility considerations. Each case had to be assessed based on individual circumstances and merits. Besides, there was a planned public columbarium development, with about 160,000 niches, at Tsang Tsui in Tuen Mun West. Although there were also some residential developments at Tsing Shan Tsuen near the approved columbarium, most of the residential uses were in low-rise structures and was more spread out in the area. The context was very different from the surroundings of GLM where the abutting Parkland Villas was a major residential development with nine 24-storey blocks. Also, GLM and Parkland Villas needed to use Tuen On Lane as shared access road;
- (c) according to the deliberation of RNTPC, the key concern on precedent effect was whether it would encourage proposals for columbarium developments in other religious institutions within the subject "G/IC" zone. While FEHD advised that they had not received any licence

application for columbarium use from the other religious institutions in the same “G/IC” zone so far, cumulative impact would be generated if a precedent case of columbarium use was approved at the Site in the subject “G/IC” zone; and

- (d) there were many old monasteries/temples in different parts of Tuen Mun but there was no information at hand on their historical background and developments.

97. Mr Ted Chan, applicant’s representative., with the aid of some site photos, supplemented that there were a lot of graves near Lingnan University, Brilliant Garden and Parkland Villas. The increase in the demand for columbarium at GLM might be partly due to the developments of the area and the need to relocate the graves therein. This showed that GLM had served the local community and there was no issue of land use incompatibility to allow columbarium use in GLM. The Board should not reject the application based on land use incompatibility reason purely on the consideration that the columbarium was close to residential developments, the town centre or near transport hub. With the aid of visualizer, he supplemented that Kun Chung Temple in Fanling was also near Pak Fuk Tsuen, and Fanling Station. It had a shared road access with the surrounding residential developments. Sin Hing Tung was located near Tuen Mun Town Plaza having similar local characteristics with Kun Chung Temple.

98. In response to a Member’s question, Mr Kepler S.Y. Yuen, DPO/TM&YLW, supplemented that Sin Hing Tung was the subject of application No. A/TM/203 for redevelopment of the existing monastery and the existing columbarium approved in 1995. Kun Chung Temple was the subject of application No. A/FSS/195 for proposed residential institution and columbarium use approved in 2010. Both applications were approved before the PCO came into effect.

99. The Chairperson said that as CoP and TD had indicated no objection to the application and their views would be further sought on the TCMP to be submitted to PCLB in future for any licence application, she asked whether the Board needed to take into account the impacts of GLM sharing road access with Parkland Villas when considering the planning application. She further asked whether the Board had previously approved other applications

for columbarium use which also had involved shared access with other residential developments and whether there were cases rejected due to close proximity to residential development and the need to share road access similar to the current application.

100. In response, Mr Kepler S.Y. Yuen, DPO/TM&YLW, made the following main points:

- (a) since PCO came into effect, the Board had rejected five similar columbarium applications and approved six applications, and three applications were being processed. For the rejected cases, the reasons were mainly due to adverse traffic impact and land use incompatibility with the surrounding residential developments that included the need for shared access in some cases. For the approved cases, access was also a planning consideration. Taking a case near Che Kung Temple (application No. Y/ST/42) approved on 4.12.2020 as an example, although that development was also close to residential developments, the access road would not pass through the nearby villages. As such, considerations such as proximity to residential developments and shared access road had to be considered based on site circumstances;
- (b) according to the Town Planning Board Guidelines No. 16 (TPB PG-No. 16) for application for development/redevelopment within “G/IC” zone for uses other than GIC uses, land use compatibility with the surroundings areas was one of the planning considerations. For the current application, the Site was very close to Parkland Villas, and the two developments shared the same Tuen On Lane for pedestrian and vehicular access. The key consideration might not be whether the traffic and crowd could be managed and controlled but whether allowing the columbarium would be acceptable from overall land use compatibility perspective noting the scale of the columbarium (1,567 niches) and the abutting residential development (about 1,700 units). In addition, CoP also indicated that the visitors to GLM and the residents would have to use the same road and a large amount of visitors during the festival days and shadow periods would

be anticipated, and that might cause nuisance to the residents to a certain extent; and

- (c) the application No. Y/TP/29 for rezoning the Buddhist Cheung Ha Temple (佛教長霞淨院) site in Tai Po for columbarium development with about 13,400 niches (40% or about 5,500 of which were 'pre-cut-off' niches) was rejected by the RNTPC on 4.9.2020. With the aid of a plan, he showed that the access road for that temple also had to pass through the existing villages and other residential dwellings. The rezoning application was not agreed to for reasons that it was incompatible with the immediate residential dwellings, would set an undesirable precedent for other similar applications and induce cumulative effect in further proliferation of columbarium use.

101. As Members had no further question to raise, the Chairperson said that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application in the absence of the applicant's representatives and inform the applicant of the Board's decision in due course. The Chairperson thanked the applicant's and PlanD's representatives for attending the meeting. They left the meeting at this point.

Deliberation Session

102. The Chairperson recapitulated that the review application was for the existing columbarium use in GLM, involving only the niches sold before the 'pre-cut-off' date under the PCO. The applicant sought the Board's permission which was a requirement for their licence application under PCO to facilitate the continuous operation of the columbarium. The key issues of the discussion should be focused on land use planning considerations rather than whether the columbarium involved UBW or contravened the lease conditions as those matters would be dealt with separately by the applicant and relevant departments if the application was approved.

103. Some Members considered that the application could be approved on sympathetic grounds on the following considerations:

- (a) the current application only involved the existing 1,567 sold niches in the columbarium (i.e. only the ‘pre-cut off’ niches under PCO), which had existed for some years and was not in a large scale compared with the previous applications submitted by the applicant or similar applications approved by the Board. The applicant had committed not to further pursue seeking permission for the unsold niches and would deal with the unauthorized matters under the building and lease regimes;
- (b) traffic problem did not appear to be a major issue for the subject application as the columbarium was already in operation, and relevant departments such as CoP and TD did not indicate that they had records of public complaints. The relatively spacious road layout at Tuen On Lane and the cul-de-sac would allow easier traffic and crowd management compared to other columbarium applications previously considered, and it would be subject to a TCMP to be approved by the PCLB under the licence application. It was also believed that residents of Parkland Villas did not frequently use the pedestrian access close to the ingress/egress of GLM. Being close to the Siu Hong West Rail Station (about 400m), visitors might use public transport instead of driving to GLM and that would ease the traffic pressure during festival days and shadow periods; and
- (c) the columbarium was not too close to residential developments compared with other applications approved by the Board. The GLM monastery and a certain number of niches should have existed before residents moved into Parkland Villas, and the residents’ objection to the columbarium use based on land use incompatibility was arguable. Also, as claimed by the Mr Lam Tin Cheung, the applicant’s representative, about one-third of the niches had served the local communities, including family members of Parkland Villas, for many years.

104. In response to some Members’ questions on the mechanism to control the number of niches if the application was approved, the Secretary said that the number of niches approved could be stipulated in an approval condition. Proposal for any additional niches would require a new planning application for the Board’s consideration. The Chairperson supplemented that

whilst the total number of the niches could be monitored and enforced as a planning condition, it would not be practical and appropriate for the planning regime to control detailed operational matters by stipulating control on niches could not be 'reused' for interring new ashes/urns. She further mentioned that the private columbaria would require a licence from the PCLB which would be in a better position to monitor operational matters.

105. More Members, however, considered that the application should not be approved on the following considerations:

- (a) the columbarium use at the Site was incompatible with the adjacent residential development just opposite the lane and large in scale. It was noted that a lot of public comments were raised by residents in the nearby residential developments objecting to the application and raising concerns on land use incompatibility, significant impact on local traffic and crowd management, and nuisances to the surrounding communities;
- (b) there was no clear evidence to prove the timeframe on the existence of the columbarium use in GLM at the current scale. It was not appropriate to assume that when the residents moved into Parkland Villas around 2000, they should have already known that there was columbarium use in GLM, especially at the current scale, as it was only supposed to be a monastery;
- (c) ancillary columbarium use in GLM, if any, should be limited in terms of scale in the past but such use had been expanded subsequently to the current scale without planning permission. That was a common situation in other previous applications involving religious institutions considered by the Board and there was no special circumstances for the Board to approve the current application;
- (d) the application should not be approved as it would set an undesirable precedent for future similar columbarium developments in religious institutions within Tuen Mun, or even have wider implications on other areas in the Territory. There might even be implication on the nearby Ching

Leung Nunnery in the same “G/IC” zone although there was no application for columbarium use for the time being; and

- (e) the Board had approved a number of planning applications for columbarium use in Tsing Shan Tsuen to the west of Yeung Tsing Road. To provide better planning for columbarium use in Tuen Mun, such use should be concentrated at Tsing Shan Tsuen where the impact on the surrounding communities was limited, rather than allowing them to spread over other areas in Tuen Mun and resulting in land use incompatibility with and nuisances to surrounding uses.

106. In response to Members’ enquiries on whether the columbarium use at GLM might be considered as an existing use, the Secretary clarified that as there was no DPA Plan covering the same area before the publication of Tuen Mun OZP, no freezing survey was conducted and there was no formal record of the existing uses at the time when the OZP was first published. The Site was zoned “U” before rezoning to “G/IC” in April 1994, and within the “U” zone all uses required planning permission from the Board. If the GLM as a religious institution was already in existence at that time, the applicant could claim existing use status for such a religious institution but not for a columbarium. Furthermore, if there were limited ashes/urns stored for the monks/nuns of the monastery, it might be considered as ancillary to the religious institution use. However, the columbarium use under application could not be considered as an ancillary use given its current scale. The fact that the applicant submitted a planning application for the columbarium use likely meant that the applicant was not trying to claim existing use status for the columbarium.

107. In respect of the timeframe on the existence of columbarium use at GLM, the Chairperson remarked that there appeared to be no conclusive evidence to prove that such use was in existence before the population intake of Parkland Villas, or vice versa. The Board should focus on land use compatibility of the columbarium of 1,567 niches with the nearby Parkland Villas.

[Dr Venus Y.H. Lun left the meeting at this point.]

108. The Chairperson concluded that whilst Members noted the sincerity of Mr Lam Tin

Cheung during the presentation session and that GLM had made efforts to try to address the departmental and public comments, more Members considered that the application should not be approved mainly due to land use incompatibility with the adjacent large scale residential development which shared the same access road, the precedent effects on other similar applications and that columbarium uses in Tuen Mun should better be concentrated near Tsing Shan Tsuen.

109. A Member asked how the ashes/urns would be handled if the application was not approved and a licence could not be obtained. The Chairperson said, to her understanding, the applicant should make efforts to contact the family members to return the ashes/urns, and the handling of unclaimed ashes/urns would be followed up by FEHD according to the established procedures. FEHD's advice on the detailed handling procedures could be sought and conveyed to Members for information later.

110. After deliberation, the Board decided to reject the application on review for the following reasons:

- “(a) the proposed development is not in line with Town Planning Board Guidelines No. 16 in that the columbarium use is in close proximity to the residential developments and sharing the same access road with the adjoining residential development, and is considered not compatible with the surrounding areas in land use terms; and
- (b) approval of the application would set an undesirable precedent for other applications of similar circumstances. The cumulative effect of approving such applications would cause nuisances to the residential neighbourhood.”

Agenda Item 6 (Cont'd)

[Open meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-PN/64

Temporary Service Area (including Vehicular Access, Manoeuvring Space, Car Parking and Loading and Unloading Bay) for a Period of 3 Years in “Agriculture” Zone and area shown as ‘Road’, Lot 8 (Part) in D.D.135 and adjoining Government Land, Sheung Pak Nai, Yuen Long (TPB Paper No. 10740)

[The item was conducted in Cantonese.]

Deliberation Session

111. Members noted that in terms of scale and operation, the current use of the adjoining site was different from that in 1990 when the IDPA Plan was gazetted, and hence the applicant’s claim that the adjoining site was a tolerated use could not be substantiated. Even if the operation at the adjoining site was a tolerated use as claimed by the applicant, it did not necessarily mean that the applied use should be approved to support the tolerated use. To approve the application would defy logic. Members generally considered that the applied use was not in line with the planning intention of the “Agriculture” zone and the applicant failed to demonstrate that the proposed development would not generate adverse impacts on the surrounding areas. There was no change in the planning circumstances since the consideration of the subject application by the Rural and New Town Planning Committee (RNTPC). Members agreed that there was no reason to deviate from the RNTPC’s decision.

112. After deliberation, the Board decided to reject the review application for the following reasons:

- “ (a) the applicant’s claim that the adjoining site was a tolerated use could not be substantiated. Even if the operation at the adjoining site was a tolerated use as claimed by the applicant, it did not necessarily mean that the applied use should be approved to support the tolerated use;

- (b) .the applied use is not in line with the planning intention of the “Agriculture” (“AGR”) zone. The planning intention of the “AGR” zone is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and also to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis; and
- (c) the applicant fails to demonstrate that the proposed development would not generate adverse landscape, environmental and traffic impacts on the surrounding areas. ”

Fanling, Sheung Shui & Yuen Long East District

Agenda Item 8

[Open Meeting]

Request for Deferment of Review of Application No. A/YL-NTM/403

Proposed House in “Green Belt” Zone, Lot 864 (Part) in D.D. 105, Ngau Tam Mei, Yuen Long (TPB Paper No. 10736)

[The item was conducted in Cantonese.]

113. The Secretary reported that the applicant requested on 19.4.2021 deferment of consideration of the review application for two months in order to allow time for the applicant to prepare further information. This was the first request for deferment of the review application.

114. After deliberation, the Town Planning Board (the Board) decided to defer a decision on the review application as requested by the applicant pending the submission of further information from the applicant. The Board agreed that the review application should be submitted for its consideration within three months from the date of receipt of further information from the applicant. If the further information submitted by the applicant was not substantial and could be processed within a shorter time, the review application could be submitted to an earlier meeting for the Board’s consideration. The Board also agreed to advise the applicant

that two months were allowed for preparation of the submission of further information, and no further deferment would be granted unless under very special circumstances.

Procedural Matters

Agenda Item 9

[Open Meeting]

Submission of the Draft Cheung Chau Outline Zoning Plan No. S/I-CC/8A under Section 8 of the Town Planning Ordinance to the Chief Executive in Council for Approval (TPB Paper No. 10741)

[The item was conducted in Cantonese.]

115. The Secretary reported that the proposed amendment to the approved Cheung Chau Outline Zoning Plan (OZP) was to take forward the decision of the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) on a s.12A application No. Y/I-CC/6 in Cheung Chau submitted by Corona Land Company Ltd., which was a subsidiary of Hongkong Land Limited (HKL) and the following Members had declared interests on the application:

- | | |
|-----------------------|--|
| Mr Lincoln L.H. Huang | - being a shareholder and director of a company that owned a flat in Lung Tsai Tsuen, Cheung Chau; |
| Mr K.K. Cheung | - his firm having current business dealings with HKL; |
| Mr Thomas O.S. Ho | - his firm having current business dealings with HKL; and |
| Mr Alex T.H. Lai | - his former firm having current business dealings with HKL. |

116. Members noted that Mr K.K. Cheung had tendered an apology for being unable to

attend the meeting and Messrs Lincoln L.H. Huang, Thomas O.S. Ho and Alex T.H. Lai had already left the meeting.

117. The Secretary briefly introduced the TPB paper No. 10741 (the Paper). On 25.9.2020, the draft OZP No. S/I-CC/8 was exhibited for public inspection for two months. As no representation was received, the plan making process had been completed, and the draft OZP was ready for submission to the Chief Executive in Council (CE in C) for approval in accordance with section 8 of the Town Planning Ordinance (the Ordinance).

118. After deliberation, the Board:

- (a) agreed that the draft Cheung Chau OZP No. S/I-CC/8A and its Notes at Annex II of the Paper were suitable for submission under section 8 of the Ordinance to the CE in C for approval;
- (b) endorsed the updated Explanatory Statement (ES) for the draft Cheung Chau OZP No. S/I-CC/8A at Annex III of the Paper as an expression of the planning intention and objectives of the Board; and
- (c) agreed that the updated ES was suitable for submission to the CE in C together with the draft OZP.

Agenda Item 10

[Open Meeting]

Any Other Business

119. There being no other business, the meeting was closed at 6:05 p.m.