

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

**APPLICATION NO. A/I-PC/13**

<b><u>Applicant</u></b>	: Peng Chau Temple of Golden Flower Limited (坪洲金花廟有限公司) represented by 朱敬賢
<b><u>Site</u></b>	: 13 Wing On Terrace, Peng Chau
<b><u>Site Area</u></b>	: 60 m <sup>2</sup> (about)
<b><u>Lease</u></b>	: Government Land
<b><u>Plan</u></b>	: Approved Peng Chau Outline Zoning Plan (OZP) No. S/I-PC/12
<b><u>Zoning</u></b>	: “Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m), or the height of the existing building, whichever is the greater]
<b><u>Application</u></b>	: Proposed Religious Institution (Temple)

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed religious institution (Temple) at the application site (the Site) (**Plans A-1 and A-2**). According to the Notes of the OZP, ‘Religious Institution (not elsewhere specified)’ is a Column 2 use under “V” zone, which may be permitted with or without conditions on application to the Town Planning Board (the Board).
- 1.2 The current application involves the use of an existing 2-storey structure on the Site for temple use. According to the applicant, the structure on the Site is known as 上苑, which is an integral part of the existing Peng Chau Kam Fa Temple (坪洲金花廟) to the immediate east of the Site. As shown on the floor plans in **Drawing A-2**, the temple under application comprises two levels, including ground floor and an attic. According to the applicant, there is an altar on the ground floor, and the rest of the ground floor area is used for various purposes, including storage of ritual supplies, gift packs for the aged, tables/chairs for activities, a reception area for guests, and work/rest place for volunteers during celebration events. There is another altar on the attic, and the remaining area is mainly used for the storage of ritual supplies and equipments for celebration events, and work place for volunteers. The Site is accessible from Peng Chau Wing On Street to its south (**Plans A-2 and A-3**).

- 1.3 Major development parameters of the proposed development are summarized as follows:

Site Area	About 60 m <sup>2</sup>
Total Floor Area (Non-domestic)	About 100 m <sup>2</sup>
No. of Structure	1
No. of Storey	2 storeys

- 1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application form received on 2.8.2018 **(Appendix I)**
- (b) Letter dated 8.8.2018 from the applicant enclosing a revised location plan, floor plan and revised justifications **(Appendix Ia)**
- (c) Further information (FI) including clarification on site area received on 10.9.2018 **(Appendix Ib)**  
*[accepted and exempted from publication and recounting requirements]*

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

The justifications put forth by the applicant in support of the application are detailed in **Appendix Ia** and summarised as follows:

- (a) the Site is occupied by a structure known as 上苑 which is part of the Peng Chau Kam Fa Temple and serves as a place to worship/place the gods. It is also used to store ritual supplies and prepare for celebration events. Peng Chau Kam Fa Temple needs the indoor place of 上苑 for the preparation of celebration events;
- (b) there are many celebrations, festivals and birthday events every year, hence, many spaces are needed for keeping/storage of ritual supplies, gift bags for the aged, large flags, flag bamboos, gongs and drums and other large scale items for various activities, and for the preparation of celebration events;
- (c) Peng Chau Kam Fa Temple only organises non-profit making/charitable activities. All the staff/workers are volunteers, and they would like to make a contribution to the society;
- (d) some annual celebration events will have dragon/lion dances in the city. The dance teams will come to the Peng Chau Kam Fa Temple to congratulate the events which is very lively. In addition, some annual celebration events are likely to attract visitors from all over the world, including overseas Chinese, who will visit various tourist attractions in Peng Chau (Peng Chau Kam Fa Temple is one of the tourist attractions). This will revitalise the local shops and tourism;
- (e) 上苑 has been in Peng Chau for several decades (from 1982 to now). It is an indispensable part of the history of Peng Chau. Some primary/secondary schools

and universities will come to the field for academic work, which is considered as a contribution to the academic community; and

- (f) as advised by District Lands Officer/Islands, Lands Department, a planning application for temple use at the Site is submitted to the Board so as to facilitate the application for Short Term Tenancy (STT) to use the Site for the services and charity activities.

**3. Compliance with the ‘Owner’s Consent/Notification’ Requirements**

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

**4. Previous Application**

The Site is not the subject of any previous application.

**5. Similar Application**

There is no similar application within the subject “V” zone on the OZP.

**6. The Site and Its Surrounding Areas (Plans A-1 to A-2 and photos on Plans A-3 to A-6)**

6.1 The Site is:

- (a) currently occupied by a 2-storey structure for the applied use without planning permission; and
- (b) accessible from Peng Chau Wing On Street to its south.

6.2 The surrounding areas have the following characteristics:

- (a) to the north is Kam Fa Temple Garden, Peng Chau granted to Director of Leisure and Cultural Services for park/sitting out area/open space use under Government Land Allocation;
- (b) to its immediate east is a structure for accommodation uses;
- (c) to its immediate south is Kam Fa Temple. It is noted that Kam Fa Temple is not amongst the 24 directly administered temples operated and managed by the Chinese Temples Committee, nor a temple registered under the Chinese Temples Ordinance; and
- (d) to its immediate west is a cluster of temporary structures used for accommodation/storage purposes. A Grade 3 historic building called I

Tze (義祠) was previously built at the location, but only part of the gable wall is still remaining on site.

## **7. Planning Intention**

The planning intention of the “V” zone is primarily for the provision of land for the retention of the existing village areas. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

## **8. Comments from Relevant Government Departments**

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

### **Land Administration**

8.1.1 Comments of the District Lands Officer/Islands, Lands Department (DLO/Is, LandsD):

- (a) the application site falls within unleased government land. No structure shall be erected on government land without Government’s approval;
- (b) the existing structure erected on site bore three squatter control surveyed numbers for accommodation and canopy uses. The squatter control surveyed numbers were deleted by Squatter Control/Islands Office (SC/Is) on 16.4.2018 as the aforesaid structure did not comply with the surveyed records. SC/Is advises that action has been taken and the application site was taken over by Government on 21.8.2018;
- (c) an application for STT submitted by the same applicant was received on 29.6.2018 but rejected by DLO/Is, LandsD on 3.8.2018;
- (d) in the event the planning permission is approved, it does not represent a STT will be issued accordingly; and
- (e) given that the Site falls on unleased government land and the respective application for STT has been rejected by DLO/Is, LandsD, the subject application is not supported.

### **Building Matters**

8.1.2 Comments of the Chief Building Surveyor/New Territories East 1 & Licensing, Buildings Department (CBS/NTE1&L, BD):

- (a) based on the information available, it is noted the applicant intends to apply for STT from DLO/Is as stated in the

application. In this connection, all existing building works, if any, erected on unleased government land (i.e. before the grant of STT) do not come under the control of Buildings Ordinance (BO), and are not unauthorized for the purpose of the BO;

- (b) if there are existing structures which had been erected on leased land without approval of the BO (not being a NTEH), they are unauthorized under the BO and should not be designated for any approved use under the subject application;
- (c) for unauthorized building works (UBW) erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the application site under the BO; and
- (d) as denoted in the application submitted by the applicant, no new development(s)/building(s) is entailed. In case there is/are proposed development(s)/building(s) associated with the planning application:
  - (i) the permissible site coverage and plot ratio of the development(s)/building(s) should comply with Regulations 20 and 21 of the Building (Planning) Regulations (B(P)R);
  - (ii) if the site does not abut on a specified street, the intensity (i.e. site coverage, plot ratio and building height(s)) of the development(s)/building(s) shall be determined by the Building Authority under B(P)R19(3) upon formal submission of building plans to the BD;
  - (iii) the site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with B(P)R5 and 41D respectively; and
  - (iv) details comments under the BO on the private development(s)/building(s) such as permissible plot ratio, site coverage, emergency vehicular access (EVA), private streets and/or access roads, barrier free access and facilities, means of escape, compliance with the sustainable building design guidelines, etc. will be formulated at the formal building plan submission stage.

### **Traffic**

#### 8.1.3 Comments of the Commissioner for Transport (C for T):

- (a) since there is no direct vehicular access to the Site and the applicant only seeks planning permission for proposed religious institution at the Site, he considers that the application can be

tolerated from traffic engineering point of view. The access roads in the vicinity of the Site (including Wing On Terrace) are not managed by the Transport Department; and

- (b) the applicant is required to provide sufficient information in the submission to demonstrate that the proposed religious institution will have no adverse impact on public transport services. As insufficient information is available in the application, he has reservation on the application from transport operation viewpoint.

### **Fire Safety**

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

- (a) he has no objection in principle to the application subject to fire service installations and water supplies for firefighting being provided to the satisfaction of his department; and
- (b) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans. Besides, EVA arrangement shall comply with requirements stipulated in BD's "Code of Practice for Fire Safety in Buildings 2011" whenever the building works fall within the ambit of the BO.

### **Urban Design and Landscape**

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

given the existing building occupies the entire site, and there is no external space or open area involved, it is considered not necessary and not practical to recommend inclusion of any landscape related condition in case the Board approves the subject application.

### **Environment**

#### 8.1.6 Comments of the Director of Environmental Protection (DEP):

- (a) in view of the small scale of proposed development, he does not anticipate insurmountable environmental problem with the proposed development. Hence, he has no problem to the subject application from the environmental planning point of view. As the Site is located in an area with public sewerage, a sewerage impact assessment is not required;
- (b) he has no comment on the proposal under application from the air and noise perspectives as the operations are limited to storage, resting venue and worship as proposed by the applicant; and
- (c) notwithstanding the above, the applicant should be reminded to follow the good environmental practices to minimize the

potential environmental nuisance to nearby sensitive receivers such as “Guidelines on Air Pollution Control for Joss Paper Burning at Chinese Temples, Crematoria and Similar Places”. Any air and noise pollution nuisance arising will also be subject to the control under the Air Pollution Control Ordinance and Noise Control Ordinance.

### **Heritage**

8.1.7 Comments of the Executive Secretary (Antiquities & Monuments), Antiquities & Monuments Office (ES(AM), AMO):

- (a) the building at No. 13 Wing On Terrace at the Site is neither a graded/proposed to be graded historic building nor a new item pending heritage assessment by the Antiquities Advisory Board. Therefore, she has no comment on the subject planning application; and
- (b) with regard to the temporary structure to the immediate west of the Site, it is I Tze at Shan Tang Tsuen, a Grade 3 historic building (the Building). In view of the close proximity of the Site to the Building, any works to be carried out at the Site shall not cause any disturbances or damages to the Building. In this connection, her office should be consulted in advance before the commencement of such works, if any, to ensure that it will not bring adverse impact to the Building.

### **Policy Aspect**

8.1.8 Comments of the Secretary for Home Affairs (SHA):

- (a) he has no objection to the subject application from religious point of view; and
- (b) should the applicant wish to apply for concessionary land premium for the development at a later stage, he would only consider giving policy support for concessionary premium for land grant cases relating to religious facilities only if the applicant is a bona fide religious and charitable organisation under section 88 of the Inland Revenue Ordinance (IRO) under the prevailing policy. It is noted that the applicant is not a charitable organization under section 88 of the IRO.

8.2 The following government departments have no objection to/no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Chief Highway Engineer/New Territories East, Highways Department;
- (c) District Officer/Islands, Home Affairs Department;
- (d) Head of the Sustainable Lantau Office, Civil Engineering and Development Department;
- (e) Director of Electrical and Mechanical Services;
- (f) Chief Engineer/Hong Kong & Islands, Drainage Services Department;

- (g) Director of Food and Environmental Hygiene;
- (h) Director of Leisure and Cultural Services; and
- (i) Commissioner of Police.

## **9. Public Comments Received During Statutory Publication Period**

9.1 On 10.8.2018, the application was published for public inspection. During the first 3-week statutory public inspection period, which ended on 31.8.2018, a total of four public comments were received. Among them, two public comments from individuals and residents of Peng Chau/ worshippers of Kam Fa Temple object to the application (**Appendices IIa & IIb**); one public comment from an individual supports the application (**Appendix IIc**) and one public comment from another individual expresses views on the application (**Appendix II d**).

9.2 The comments are summarised as follows:

### Objecting comments

- (a) the existing structure on Site is an illegal squatter structure subject to squatter control action by LandsD. The current application is seeking a justification for the existence of an illegal structure by means of a planning application;
- (b) the proposed use on site is not compatible with the neighbourhood, which is in the midst of a cluster of village houses within the “V” zone. It is likely to have adverse impacts on noise, air quality, fire safety, building safety, pedestrian traffic and safety in the area and add loads to the ferry services, causing inconvenience to the residents of Peng Chau;
- (c) there is already a Chinese temple named Kam Fa Temple adjoining the Site to serve the worship needs of the residents in the village;
- (d) approval of the proposed development would set an undesirable precedent for similar applications within the “V” zone, and result in general degradation of the desired living environment and rural landscape character;

### Supporting comments

- (e) the autographs of a previous Master are kept at the Site. For the protection of history and culture, the Board’s approval to the current application is supported; and

### Expressing views

- (f) the application site falls within the “V” zone which is intended for village type development; there are residential developments in the vicinity; and burning of incense or joss-sticks during festivals is likely to cause air pollution and affect the nearby residents.

## **10. Planning Considerations and Assessments**

10.1 The Site falls within the “V” zone which is primarily for the provision of land for the retention of the existing village areas. Selected commercial and community



uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board. There is no strong justification in the submission to demonstrate that the proposed development is required to serve the needs of the villagers or to support the operation of the existing Kam Fa Temple.

- 10.2 Although the proposed temple use at the Site is considered not incompatible with the general village/rural character of the neighbourhood which mainly comprises a temple (Kam Fa Temple), sitting out area/open space, temporary squatter structures for accommodation uses, the Site falls within unleased government land and the current temple use within the Site has no prior planning approval. According to DLO/Is, LandsD, no structure shall be erected on government land without Government's approval. Squatter control action has been undertaken and the Site was taken over by Government on 21.8.2018. In this connection, DLO/Is, LandsD does not support the application. If the application is approved, it would send a wrong message for illegal occupation of government land.
- 10.3 Although concerned departments have no adverse comments in terms of environmental, sewerage, drainage and geotechnical aspects, C for T has reservation on the application from transport operation viewpoint as there is insufficient information in the submission to demonstrate that the proposed religious institution will have no adverse impact on public transport services in the area.
- 10.4 As advised by SHA, the applicant is not a charitable organization under section 88 of the IRO. There is no strong justification in the submission to demonstrate that the Site is necessary to support the operation of Kam Fa Temple.
- 10.5 Regarding the public comments in paragraph 9 above, the planning assessments as set out in paragraphs 10.1 to 10.4 are relevant.

## **11. Planning Department's Views**

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments in paragraph 9, the Planning Department does not support the application for the following reason:

the Site falls within the "V" zone which is primarily for the provision of land for the retention of the existing village areas. There is no strong justification in the submission to demonstrate that the proposed development is required to serve the needs of the villagers or to support the operation of the existing Kam Fa Temple.
- 11.2 Alternatively, should the Committee decide to approve the application, it is suggested that the planning permission shall be valid until 21.9.2022, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following condition of approval and advisory clauses are also suggested for Members' reference:

Approval Condition

the provision of fire service installations and water supplies for firefighting to the satisfaction of the Director of Fire Services or of the Town Planning Board.

Advisory Clauses

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

**12. Decision Sought**

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.
- 12.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

**13. Attachments**

<b>Appendix I</b>	Application Form received on 2.8.2018
<b>Appendix Ia</b>	Letter dated 8.8.2018 from the applicant enclosing a revised location plan, floor plan and revised justifications
<b>Appendix Ib</b>	FI including clarification on site area received on 10.9.2018
<b>Appendices IIa to IId</b>	Public Comments received during the Statutory Publication Period from 10.8.2018 to 31.8.2018
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Location Plan of the Proposed Religious Institution (Temple)
<b>Drawing A-2</b>	Floor Plan of the Proposed Religious Institution (Temple) (Ground Floor and Attic)
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos
<b>Plan A-5</b>	Site Photos (Internal views of Ground Floor)
<b>Plan A-6</b>	Site Photos (Internal views of Attic)