

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

APPLICATION NO. Y/TP/29

- Applicant** : Buddhist Cheung Ha Temple Limited represented by Vision Planning Consultants Limited
- Site** : Lots 1087, 1130 and 2089 in D.D. 6 and adjoining Government land, Kam Shan, Tai Po, New Territories
- Site Area** : About 1,768m² (including 1,311.8m² Government land or 74% of the site area)
- Lease** : (a) Lots 1087 and 1130 held under New Grant No. 4961 and TP5543 respectively as Building Lots subject to General Conditions of Sale and Special Condition No. 2(a) published in GN 570 of 1924 and are restricted to:
- (i) 2 storeys in height;
 - (ii) no grave nor human remains be interred in, or deposited on the Lots; and
 - (iii) not used as a “Chai Tong” or for any other purpose of a similar nature except with the written consent of the District Officer.
- (b) Lot 2089 held under New Grant No. 12530 dated 15.4.1991 for a term up to 30.6.2047 and is restricted to:
- (i) non-industrial purposes for a building with a maximum height of 3 storeys and roofed-over-area of 65.03 m²; and
 - (ii) no grave nor human remains be interred therein or deposited thereon.
- Plan** : Approved Tai Po Outline Zoning Plan (OZP) No. S/TP/28
- Zoning** : “Village Type Development” (“V”)
- Proposed Amendment** : Rezoning from “V” to “Government, Institution or Community(3)” (“G/IC(3)”)

1. The Proposal

- 1.1 The applicant proposes to rezone the application site (the Site), which is being used for a religious institution under the name of Buddhist Cheung Ha Temple (佛教長霞淨院) with columbarium uses (**Plan Z-1**), from “V” to “G/IC(3)”.

The Site is currently occupied by two 2-storey temple-cum-columbarium structures and one 3-storey ancillary office building mainly on private lots as well as some temple-related features, temporary structures and circulation areas on Government land (**Plan Z-2a** and **Drawings Z-3** to **Z-7**). The applicant has proposed a new set of Notes for the “G/IC(3)” zone (**Appendix II**) with ‘Religious Institution’ use placed under Column 1 as always permitted use, and ‘Columbarium’ and ‘Office’ uses under Column 2 requiring planning permission from the Town Planning Board (the Board).

- 1.2 According to the applicant, the existing religious institution, columbarium and ancillary office uses within the Site have been in operation since 1928, 1930s and 2007 respectively. The development parameters of the existing columbarium and ancillary office building are as follows:

Site area	About 1,768m ² (including 1,311.8m ² Government land)	
Total Gross floor area (GFA)	About 971.7m ²	
	Columbarium A (Lot 1087)	538.9m ²
	Columbarium B (Lot 1130)	237.8m ²
	Ancillary Office (Lot 2089)	195.0m ²
Plot ratio	0.55	
Site coverage	25.8%	
No. of blocks	3	
Building Height (No. of Storeys)	Columbarium A (Lot 1087)	10m (2 storeys)
	Columbarium B (Lot 1130)	8m (2 storeys)
	Ancillary Office (Lot 2089)	7.8m (3 storeys)

- 1.3 The applicant states that there are a total of 13 426 niches accommodated in the columbarium with five different types (i.e. single-urn, double-urn, triple-urn, quadruple-urn and sextuple-urn), of which 5 508 niches (i.e. 41% of the total number) have already been sold before 30.6.2017 and 7 918 niches (i.e. 59% of the total number) are available for sale (**Drawings Z-5** and **Z-6**). In addition, a total of 3 049 memorial tablets are provided in one of the columbarium halls (namely 思孝堂) on the first floor of Columbarium A. A detailed account of the current status of the columbarium niches and memorial tablets is as follows:

Classification	Single-urn	Double-urn	Triple-urn	Quadruple-urn	Sextuple-urn	Total
Total No. of Niches	4 969	7 994	265	192	6	13 426
● Columbarium A	2 913	5 413	48	155	0	8 529
● Columbarium B	2 056	2 581	217	37	6	4 897
No. of Sold Niches	1 788	3 576	70	73	1	5 508
● Occupied	975	2 729	52	59	1	3 816
● Not Yet Occupied	813	847	18	14	0	1 692
No. of Niches Available for Sale	3 181	4 418	195	119	5	7 918
Total No. of Memorial Tablets	NA	NA	NA	NA	NA	3 049
● Sold						1 877
● Available for sale						1 172

Traffic and Crowd Management Plan

- 1.4 The applicant states that the Site is not served by vehicular access and no parking facilities will be provided within the Site. Visitors will access the Site from Kam Shan Road via footpath/stairs of about 1.4m to 1.8m wide. The applicant has submitted a Traffic Impact Assessment (TIA) report in support of the rezoning application (**Appendix Ii**), including a management plan to control the number of visitors. Crowd management measures including a 'pre-booking system' for the visitors during Ching Ming/Chung Yeung Festivals and their shadow weekends (i.e. Saturdays, Sundays and public holiday(s) within the two weeks immediate before and after the Festival Days) restricting the visitor number to a maximum of 212 persons per half-hour session.
- 1.5 As part of the crowd management measures during festival periods, one-way ingress/egress routing is proposed with deployment of a total number of 47 staff and setting up of temporary directional signage at designated egress/ingress routes within the Site and in its vicinity (**Drawings Z-8 to Z-10**) to regulate the flow of visitors. Staff deployed at key locations along Kam Shan Road will assist the visitors and help regulate pedestrian flows to ensure other road users will not be affected during peak times. Admission to the Site will be controlled by staff stationed at the designated entrance to only allow access for visitors with valid appointments (up to 30 minutes before their booked session). Visitors will be directed to wait at the proposed waiting areas within the Site until the time of their booked session to enter the columbarium buildings. Departing visitors will be directed by the staff to leave the Site via two designated egress routes leading to Kam Shan Road (**Drawing Z-10**).
- 1.6 Other measures during the festival periods also include encouraging visitors to arrive at the Site by public transport; advance coordination with the Police; and provision of online memorial service to reduce the number of visitors to the Site.
- 1.7 In addition, the applicant proposes widening of a narrow section of the footpath/pavement at Kam Shan Road from 1.25m to 1.7m wide by shifting the existing bollards and railings northward (the alignment of the road kerb will also be slightly shifted northward) (**Drawing Z-11**) to cater for the anticipated pedestrian flow at peak hours. According to the TIA report, a minimum width of 7.5m for the carriageway of Kam Shan Road could be maintained after the footpath widening proposal.
- 1.8 With the proposed traffic management plan and footpath widening, the TIA report concludes that the subject columbarium, even with all the 13 426 niches occupied, will not cause any adverse impact to vehicular and pedestrian traffic on the adjacent road network and is acceptable from traffic engineering point of view.
- 1.9 Regarding the operation hours of the columbarium, it would be between 9am and 6pm on Mondays to Sundays; and with extended opening hours from 7am to 7pm during Ching Ming/Chung Yeung Festivals and their shadow weekends as well as Yu Lan Festival.

Environmental Impact

- 1.10 The applicant states that there are existing communal and staff toilet facilities inside Columbarium A and ancillary office building respectively (**Drawings Z-5 and Z-7**), which have been connected to existing public sewerage system. The applicant has submitted a revised Sewerage Impact Assessment (SIA) and further information (FI) to demonstrate no adverse sewerage impact (**Appendices Ib, If and Ij**). Besides, no furnace facility will be provided, and no burning of offerings is allowed within the Site under the existing house rules. Only burning of a small amount of smoke-free incense provided by the applicant may be permitted and hence no environmental impact is anticipated.
- 1.11 The location plan, the public transport and car parking facilities in the vicinity, master layout plan of the Site, floor plans of Columbaria A and B and ancillary office building, designated ingress/egress routes during festival periods, and footpath/pavement widening proposal are shown on **Drawings Z-1 to Z-11**.
- 1.12 In support of the rezoning application, the applicant has submitted the following documents:
- (a) Application form with supplementary information received on 17.7.2019 (**Appendix I**)
 - (b) Planning Statement attached to the application form (**Appendix Ia**)
 - (c) FI received on 23.9.2019 providing a revised SIA and responses to departmental comments# (**Appendix Ib**)
 - (d) FI received on 3.12.2019 providing a revised TIA and responses to departmental comments# (**Appendix Ic**)
 - (e) FI received on 7.2.2020 providing a revised TIA and responses to departmental comments# (**Appendix Id**)
 - (f) FI received on 20.3.2020 providing a revised TIA and responses to departmental comments# (**Appendix Ie**)
 - (g) FI received on 1.6.2020 providing a revised SIA, a revised TIA, a new Geotechnical Planning Review Report (GPRR) and responses to departmental comments# (**Appendix If**)
 - (h) FI received on 9.6.2020 providing a revised TIA and responses to departmental comments# (**Appendix Ig**)
 - (i) FI received on 15.7.2020 providing responses to departmental comments* (**Appendix Ih**)
 - (j) FI received on 29.7.2020 providing a consolidated TIA report* (**Appendix Ii**)
 - (k) FI received on 7.8.2020 providing responses to departmental comments* (**Appendix Ij**)
 - (l) FI received on 21.8.2020 providing responses to departmental comments* (**Appendix Ik**)

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

(* 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 as stated in the Planning Statement (**Appendix Ia**) and FIs (**Appendices Ib to Ik**) are summarized as follows:

- (i) the subject columbarium is in line with the prevailing Government's policy in providing more columbaria facilities to meet future demand for new columbarium niches in the local community;
- (ii) the Buddhist Cheung Ha Temple has been established since 1928 and the columbarium use has been in existence since 1930s for the deceased Buddhist members and those people who were homeless and in financial difficulties. According to the applicant, the temple has been selling niches to the general public since 1987. Negative impact on the land supply for new Small House development in the area as a result of the applied use is not anticipated;
- (iii) the subject columbarium was established before the surrounding Small Houses were built and isolated from the Small House development of Kam Shan Village due to its location at the upper Kam Shan hill skirt. The subject columbarium is compatible with its surrounding area without compromising the local rural characteristics and setting;
- (iv) the applicant has submitted a consolidated TIA report (**Appendix Ii**) which proposes crowd management measures including a 'pre-booking system' for the visitors during Ching Ming/Chung Yeung Festivals and their shadow weekends restricting the number of visitors to 212 persons per half-hour session, and deployment of staff at the entrances and key locations to regulate the flow of the visitors etc., as well as a footpath/pavement widening proposal at a narrow section of Kam Shan Road to cater for the anticipated pedestrian flow at peak hours. The TIA report has demonstrated that, with the proposed crowd control measures and footpath widening proposal, the identified critical road junctions and footpaths in the area are anticipated to operate within their capacities during peak times, hence the columbarium use will not cause adverse traffic impact to the adjacent road network and pedestrian links;
- (v) as no burning of offerings is allowed and no burning facility will be provided on the Site, no adverse environmental impact due to the applied use on the local community is anticipated;
- (vi) according to the revised SIA and FI submitted by the applicant (**Appendices Ib, If, Ij and Ik**), the on-site toilet facilities have been connected to the public sewerage system and no new buildings works or additional site formation works will be carried out within the Site. In view of insignificant increase in sewage and change in stormwater generation, no adverse sewerage and drainage impacts are anticipated;
- (vii) the 'Columbarium' use is proposed to be inserted under Column 2 of the "G/IC(3)" zone which ensures full planning control over the columbarium development from the Board and Government departments; and
- (viii) the operation of the subject columbarium is enforceable and will be monitored under the Private Columbaria Ordinance (PCO) upon the Board's approval of the subsequent s.16 planning application.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection. As for the Government land portion of the Site, the “owner’s consent/notification” requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/ Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) are not applicable to this application.

4. Background

Zoning History of the Site

4.1 The Site was zoned “V” since the first statutory plan covering Tai Po area was gazetted on 12.12.1980. Since then, ‘Religious Institution’ use has been permitted as of right in “V” zone until the gazetting of the draft Tai Po OZP No. S/TP/18 on 30.7.2004. The Notes of the “V” zone were amended to put ‘Religious Institution (other than Ancestral Hall)’ as a Column 2 use requiring planning permission. As for ‘Columbarium’ use, it has neither been a use permitted as of right under Column 1 nor a use that may be permitted on application to the Board under the Notes for “V” zone.

The Kam Shan/Shek Kwu Lung Cluster

- 4.2 According to the information provided by the Food and Environmental Hygiene Department (FEHD), a total of six applications for Specified Instrument under the PCO are received from the private columbaria (including the subject columbarium) located in the vicinity of Kam Shan/Shek Kwu Lung area (the cluster area) (**Plan Z-1**). These columbaria are zoned “V”, “Open Space” (“O”), “G/IC” or “Green Belt” (“GB”) on the OZP and all of them are accessible via Kam Shan Road.
- 4.3 Amongst the six private columbaria in the cluster area, five of them (including the subject columbarium) have submitted planning applications. Apart from the current application, the other four applications are detailed below:

Approved Applications

“GB” zone

- (a) Application No. A/TP/652 for religious institution and columbarium with ancillary quarters under the name of Siu Ling Shan (Ling Hin Fat Yuen) (小靈山(靈顯法院)) providing a total of 757 niches (including 458 niches available for sale) was approved with conditions by the Committee on 19.7.2019 mainly on the considerations of being not incompatible with the surrounding land uses; no adverse traffic impact was anticipated; and being generally in line with the Town Planning Board Guidelines No. 10 in that no trees were affected and other concerned departments had no objection to or no adverse comment on the application;

“G/IC” zone

- (b) Application No. A/TP/657 for a columbarium providing a total of 5 302 niches (all of which have been sold before 30.6.2017) under the name of Poh Yea Ching Shea (般若精舍) at Mui Shue Hang Village was approved with conditions by the Committee on 29.11.2019 mainly on the considerations of being in line with the planning intention of “G/IC” zone; not incompatible with the surrounding land uses; and no adverse traffic, environmental, visual and landscape impacts were anticipated;

Rejected Applications

“O” zone

- (c) Application No. Y/TP/23 is for rezoning of the application site from “O” to “G/IC” to regularise the existing religious and columbarium uses under the name of Ever Rest Temple (常寂園) providing a total of 763 niches (including 364 niches available for sale). The application was rejected by the Committee on 6.2.2015 mainly on the grounds that access to the application site had to make way through the Mui Shue Hang Playground and the applicant failed to demonstrate the acceptability of the proposed traffic arrangement and that the development would not cause adverse traffic impact on the surrounding areas;

“V” zone

- (d) Application No. Y/TP/18 is for rezoning of the application site from “V” to “G/IC(2)” to regularize an existing columbarium providing 1 700 niches (including 1,563 niches available for sale) under the name of Cheung Ha Ching Shea (祥霞精舍). The application site under Y/TP/18 is located to the immediate northwest of the subject application and it was rejected by the Committee on 8.11.2013 mainly on the grounds of incompatibility with the existing village setting in the area; the TIA submitted failing to demonstrate that the development would have no adverse traffic impacts on the surrounding areas and the proposed traffic and pedestrian arrangements and widening of Kam Shan Road could resolve the possible adverse traffic impacts satisfactorily; failing to demonstrate that the proposed closure was implementable and enforceable; and setting of undesirable precedent for other similar applications within the “V” zone; and
- (e) subsequently, the applicant of Application No. Y/TP/18 submitted another application (No. Y/TP/27) for rezoning the same site from “V” to “G/IC(3)”. Compared with the previous application, major development parameters and total number of niches under Y/TP/27 remain the same except the change in breakdown of the types of the niches; total number of niches available for sale (i.e. 1,538); the proposed closure of the columbarium on festival days as well as their shadow weekends and adoption of “visit-by-appointment” system. Application No. Y/TP/27 was rejected by the Committee on 26.5.2020 mainly on the grounds of being not compatible with the existing village setting of the area, particularly the residential dwellings located to its immediate west and south; and setting of undesirable precedent for other similar rezoning applications within the “V” zone.

5. Previous Application

Part of the Site (i.e. excluding the ancillary office building at Lot 2089 in D.D.6 under the current application) is the subject of a previous application No. Y/TP/16 submitted by the same applicant for rezoning from “V” to “G/IC(2)”. That application was withdrawn by the applicant on 30.8.2011.

6. Similar Applications

- 6.1 Within the same “V” zone, there are two similar rezoning applications (No. Y/TP/18 and Y/TP/27) covering the same site to regularise the existing columbarium use. Both applications were submitted by the same applicant and were rejected by the Committee on 8.11.2013 and 26.5.2020 respectively. For the last application (No. Y/TP/27), it was rejected by the Committee mainly on the grounds of being not compatible with the existing village setting of the area, particularly the residential dwellings located to its immediate west and south; and setting of undesirable precedent for other similar rezoning applications within the “V” zone.
- 6.2 Details of the above similar applications are summarized at **Appendix III** and the location is shown on **Plans Z-1** and **Z-2a**.

7. The Site and its Surrounding Areas (**Plans Z-1, Z-2a, Z-2b**, aerial photo at **Plan Z-3** and site photos at **Plans Z-4a** to **Z-4h**)

7.1 The Site is:

- (a) currently occupied by two 2-storey temple-cum-columbarium structures and one 3-storey ancillary office building on several elevated platforms (at levels of about 15mPD to 24mPD) with temple-related features and temporary structures on Government land under the name of Buddhist Cheung Ha Temple (佛教長霞淨院);
- (b) located within the village proper of Kam Shan and immediately adjoins existing residential dwellings;
- (c) within the village ‘environs’ (‘VE’) of Kam Shan; and
- (d) accessible from Kam Shan Road via footpath/stairs accesses (about 1.4m to 1.8m wide) shared by local villagers through the village cluster. The applicant’s proposed ingress/egress routes as shown on **Plan Z-2a** are as follows:
 - (i) ingress route - stairs to the east of Nos. 57-58 Kam Shan Village connecting from Kam Shan Road to the main entrance of the Site (about 40m long) (**Plan Z-4b**);
 - (ii) egress route (1) - footpath/stairs connecting the northwestern corner of the Site to Kam Shan Road (over 30m long) (**Plan Z-4g**); and
 - (iii) egress route (2) - footpaths/stairs connecting from the southwestern corner of the Site to an uphill footpath to the south of No. 91 Kam Shan Village and downhill footpath/stairs to Kam Shan Road (over 170m long) (**Plan Z-4h**).

7.2 The surrounding areas have the following characteristics:

- (a) to the north, east and west of the Site are mainly village houses, some of which are immediately abutting the site boundary. The Site shares the same footpath/stairs accesses leading to Kam Shan Road with many village houses in Kam Shan Village, particularly those to its immediate north between the Site and Kam Shan Road at Nos. 57-58, 62, 63, 64, 66, 69 and 70 Kam Shan Village (**Plans Z-2a, Z-2b, Z-4b, Z-4g and Z-4h**). An existing columbarium, namely Cheung Ha Ching Shea (祥霞精舍), is operating without planning permission at Nos. 74 and 75 Kam Shan Village at about 40m to the northwest;
- (b) to the further northwest of the Site on the opposite side of Kam Shan Road is the Kam Shek New Village;
- (c) to the further north of the Site across Lam Tsuen River is a public housing development, namely Tai Wo Estate; and
- (d) Tai Wo MTR Station is about 250m away from the Site.

8. **Planning Intention**

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

9. **Comments from the Relevant Government Departments**

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

Licensing Aspect

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

General Comments

- (a) the PCO, which regulates the operation of private columbaria through a licensing scheme, came into effect on 30.6.2017 upon gazettal. Under the PCO, only private columbaria that have obtained a licence may sell or newly let out niches. Any private columbarium which applies for a licence must comply with the Town Planning Ordinance (Cap. 131) and other requirements prescribed in the PCO or specified by the Private Columbaria Licensing Board (the Licensing Board), including land-related, building-related, right to use the columbarium premises, deed of mutual covenant (if applicable), fire safety, etc.

A licence applicant is also required to submit a Management Plan to the Licensing Board for approval. The Management Plan should show that suitable measures on traffic and public transport arrangement or management would be taken to minimize any adverse impact that operation of the columbarium may have on the neighbourhood. In determining whether to approve an application for a licence, the Licensing Board must have regard to the public interest and may have regard to any other relevant considerations;

Comments Specific to the Site

- (b) the Licensing Board received a set of specified instrument (SI) application (viz. a licence and temporary suspension of liability) from the subject private columbarium. It is noted that the total number of niches and ash interment capacity proposed for the SI applications is in line with that under the current application. The application is being processed by the Private Columbaria Affairs Office (PCAO) of Food and Environmental Hygiene Department (FEHD) according to the prevailing procedure and the niche information proposed for the licence application is subject to verification by PCAO; and
- (c) PCAO has no comments on the applicant's proposed 'pre-booking system' arrangement provided that:
 - (i) the applicant shall keep a register for the 'pre-booking system' arrangement to record the information including (but not limited to) the date and time of visit session, niche number to be visited, the name of visitor, the number of visitors, the time of leaving the columbarium, the date of booking and the means of booking etc. so that monitoring on compliance of such mandatory 'pre-booking system' arrangement could be conducted by FEHD staff on the spot;
 - (ii) the proposed 'pre-booking system' arrangement should be incorporated into the Management Plan to be submitted to the Licensing Board for consideration. If such Management Plan and the associated licence application are approved by the Licensing Board, then PCAO will undertake the monitoring of implementation of the Management Plan within the site boundary covered by the licence;
 - (iii) the applicant undertakes to inform the affected parties (including the purchasers of the sold niches) in writing that special traffic arrangements, online memorial service and a mandatory 'pre-booking system' arrangement during the specified implementation periods is proposed by the applicant and will be implemented if its planning application is approved;

- (iv) the applicant also undertakes to remind the concerned parties by letter, email, fax, SMS and any possible notification means of such special traffic arrangements, online memorial service and mandatory 'pre-booking system' arrangement during the specified periods at least one month in advance of each period; and
- (v) for future buyers of the interment rights of niches in the concerned columbarium, the applicant undertakes to state clearly in the sales agreements that special traffic arrangements, online memorial service and a mandatory 'pre-booking system' arrangement during the specified implementation periods will be adopted and explain these arrangements to the potential buyers before entering into the sales agreements.

Religious Policy

9.1.2 Comments of the Secretary of Home Affairs (SHA):

- the Buddhist Cheung Ha Temple worships the Buddha, Dharma and Sangha and has been active in holding ceremonies and events to promote Buddhism. It is a bona fide religious organization.

Land Administration

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

- (a) no objection to the application;
- (b) the Site consists of Lots No. 1087, 1130 and 2089 and adjoining Government land in D.D. 6. The lease conditions of these three Lots contain, inter alia, the following restrictions:
 - (i) according to the Land Registry record, Lot 1087 (about 3 000 ft²) is held under New Grant No. 4961 whereas Lot 1130 (about 1 200 ft²) is held under New Grant No. TP5543, but their lease terms are uncertain and the original land documents are untraceable. However, according to LandsD's records, it seems that the two lots are Building Lot and governed by the General Conditions of Sale and Special Condition No. 2(a) published in Government Notification No. 570 of 1924, development is restricted to two storeys in height, no grave nor human remains be interred in, or deposited on the Lot and shall not be used as a "Chai Tong" or for any other purpose of a similar nature except with the written consent of LandsD; and

- (ii) according to the Land Registry record, Lot 2089 (about 65.03m²) is held under New Grant No. 12530 dated 15.4.1991 for a term up to 30.6.2047. The Lot is restricted to non-industrial purposes for a building with a maximum of three storeys in height and roofed-over-area of 65.03m², and no grave nor human remains be interred therein or deposited thereon. The present roofed-over-area is found exceeding the permitted area;
 - (c) the columbarium use on Lots 1087 and 1130 is in contravention of the lease restrictions, and a warning letter dated 6.5.2016 has been registered in the Land Registry against these two Lots;
 - (d) the lot boundaries of Lots 1087 and 1130 under the current application are different from LandsD's record. Hence, part of the columbarium and a number of structures are built on Government land without approval. Prosecution action was taken against the illegal occupation of Government land on 29.10.2012 and the defendant was convicted with fine on 8.1.2013;
 - (e) the applicant's proposed land exchange in respect of Lots 1087 and 1130 will not be considered as it is not in line with LandsD's current guidelines. Instead, waiver and Short Term Tenancy (STT) may be considered for private columbarium purpose should they be submitted by the applicant;
 - (f) should the application be approved by the Board, the applicant is required to submit relevant waiver and STT application to LandsD. However, there is no guarantee at this stage that the waiver/STT applications would be approved. If the waiver/ STT applications are approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD including the payment fee/ rent and administrative fee as considered appropriate. LandsD would consult FHB regarding the details of the subject case in considering the payment of fee/ rent and administrative fee that might be imposed;
 - (g) the Site falls within the 'VE' of Kam Shan, and is not covered by any Modification of Tenancy or building licence;
 - (h) the number of outstanding Small House applications and the number of 10-year Small House demand forecast for the four villages covered by the same "V" zone (i.e. Kam Shan, Shek Kwu Lung, Pan Chung and Pan Chung San Tsuen) are 11 and 477* respectively; and
- (* The figures of 10-year Small House demand were estimated and provided by the Indigenous Inhabitant Representatives of concerned villages and the information so obtained is not verified by LandsD.)

- (i) the area of the Site and other details submitted by the applicant have not been verified.

Traffic

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

- (a) understanding that PCAO has confirmed to take up enforcement for the 'pre-booking system' arrangement under the Management Plan to be submitted to the Licensing Board, he has no in-principle objection to the application from traffic engineering point of view subject to the followings:
 - (i) the implementation of the proposed footpath/pavement widening of a section of Kam Shan Road as detailed in the TIA report (**Drawing Z-11**);
 - (ii) the implementation of the crowd management measures as detailed in the TIA report, including the 'pre-booking system', deployment of staff to regulate the flow of visitors, and setting up of directional signage with designated routings and waiting areas within the Site; and
 - (iii) the land authority shall give the applicant the exclusive right for the usage of the proposed waiting areas for visitors falling within government land, which is an important assumption of the crowd management plan of the TIA report; and
- (b) since the PCAO will be responsible for monitoring the implementation of the management plan, the above crowd management measures as proposed by the applicant in the TIA report (**Appendix Ii**) should be included in the Management Plan for the Licensing Board's approval.

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

- subject to the implementation of the crowd management plan as detailed in the TIA report (**Appendix Ii**), the application is considered acceptable from the Police point of view.

Environment

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

- (a) it is noted that the applicant has proposed the following operational arrangements for the columbarium:
 - (i) no furnace facility will be provided within the premises. Burning of joss paper and paper offerings will be strictly prohibited within the premises;

- (ii) wastewater generated from the Site will be conveyed to the public sewerage;
 - (iii) administrative measures will be in place to control the number of visitors during festival periods; and
 - (iv) the operation hours of the premises would be between 9am and 6pm on Mondays to Sundays; and would be extended from 7am to 7pm during Ching Ming/Chung Yeung Festivals and the two weekends before and after these Festival days as well as Yu Lan Festival; and
- (b) no objection to the application on the understanding that there are mechanisms available at the s.16 application stage of the Town Planning Ordinance or under the PCO to ensure the applicant's implementation of the proposed operational arrangements.

Drainage and Sewerage

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

- (a) no in-principle objection to the application from public drainage viewpoint;
- (b) there are public stormwater drains maintained by DSD in the vicinity of the Site. The subject columbarium should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from other areas surrounding the Site. Should the columbarium development be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site. The applicant is required to maintain the drainage systems properly and rectify the systems if they are found to be inadequate or ineffective during operation;
- (c) no comment on the revised SIA and the applicant's response to comments (**Appendices Ib, If, Ij and Ik**). There are existing DSD maintained public sewer within the Site. To protect the integrity of existing public sewerage facilities located within the Site, the inclusion of a Special Condition for "drainage reserve" are necessary. The applicant should follow the established procedures and requirements for connecting sewers from the Site to the public sewerage system. A connection proposal should be submitted for approval beforehand. Moreover, the sewerage connection will be subject to DSD's technical audit, for which an audit fee will be charged; and
- (d) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought.

Urban Design and Landscape

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

Urban Design

- (a) no particular comment on the application from urban design perspective given the existing building structures are not excessive in building bulk and building height; and

Landscape

- (b) no objection to the application from landscape planning perspective. The Site is situated in an area of rural landscape character comprising village houses and scattered tree groups. The proposed development is already built and under operation. The development proposal would not involve alteration or extension of the existing buildings. Referring to the submitted layout plan, existing trees are not in direct conflict with the applied use. Further significant adverse impact on landscape resources is not anticipated.

Fire Safety

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

- (a) no in-principle objection to the application subject to fire service installations (FSIs) and water supplies for firefighting being provided to his satisfaction;
- (b) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans or referral from the relevant licensing authority; and
- (c) EVA provision in the Site shall comply with the standard as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 under the Building (Planning) Regulation 41D which is administered by Buildings Department.

Building Matters

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

- (a) no in-principle objection to the application under the Buildings Ordinance (BO);
- (b) there is no record of approval by the Building Authority for the existing structures at the Site and BD is not in a position to offer comments on their suitability for the use related to the application;
- (c) for development of a columbarium, premises should comply with specified design and construction requirements for columbarium facilities as outlined in PNAP APP-154; and

- (d) the applicant should note the following advisory comments under BO:
- (i) if the existing structures are erected on leased land without approval of BD (not being a New Territories Exempted House), they are unauthorized under the BO and should not be designated for any approved use under the application;
 - (ii) 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 site under the BO;
 - (iii) before any new building works are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO;
 - (iv) the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations respectively;
 - (v) if the site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulations at the building plan submission stage;
 - (vi) the sustainable building design requirements and the pre-requisites under PNAP APP-151 & 152 for gross floor area (GFA) concessions would be applicable to new development. In this connection, any non-mandatory or non-essential plant rooms of new development may be accountable for GFA under the BO subject to their compliance with the above PNAPs;
 - (vii) for development of a columbarium, premises should comply with specified design and construction requirements for columbarium facilities as outlined in PNAP APP-154; and
 - (viii) detailed comments under the BO will be provided at the building plan submission stage.

Local Views

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

- (a) no comment on the application; and
- (b) according to his record, an email was received from a local resident of Kam Shan Village objecting to the application mainly on grounds of attracting large number of visitors and cause traffic congestion on local road. The email has been conveyed to the Board for consideration in due course (**Appendix IV(7)**).

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

- (a) Director of Agriculture, Fisheries and Conservation;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Chief Highway Engineer/NT East, Highways Department;
- (d) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (e) Project Manager/North, Civil Engineering and Development Department; and
- (f) Director of Electrical and Mechanical Services.

10. Public Comments Received During Statutory Publication Periods

10.1 The application and FIs submitted by the applicant were published for public inspection. During the statutory public inspection periods, a total of 2 539 public comments were received, of which 413 raising objection to the application, 2 108 supporting the application, and the remaining 18 indicating no comment on the application. All the public comments received are deposited at the meeting for Members' inspection and samples of the comments are attached at **Appendix IV**.

Opposing Comments (413)

10.2 The **413 opposing comments** were received from a former Tai Po District Council Member (**Appendix IV(1)**), a current Tai Po District Council Member (**Appendix IV(2)**), Indigenous Inhabitant Representative of Kam Shan Village (**Appendix IV(3)**), Alliance for the Concern over Columbarium Policy (**Appendix IV(4)**), Designing Hong Kong (**Appendix IV(5)**), local villagers/ residents and other individuals (**Appendices IV(6) to IV(9)**). Among the 413 opposing comment, 375 public comments were received in the form of a standard letter (**Appendix IV(9)**).

10.3 The main grounds of objection are summarised below:

- (a) the subject columbarium is not in line with the planning intention of the "V" zone. Such use should be located far away from residential development (i.e. village houses) and the land should be reserved to meet the needs of indigenous villagers;

- (b) the subject columbarium is incompatible with the surrounding area which is occupied by residential developments. Columbarium is considered to be an aversive use and it will destroy the “Fung Shui” of the concerned village;
- (c) the village house supply to indigenous villagers is reduced as part of the application site was a traditional village house but now occupied by the subject columbarium. Besides, the columbarium affects the property value of its surrounding area, hindering the development of village houses;
- (d) the road capacity of the existing two-way single-lane Kam Shan Road is already overloaded. Inadequate parking spaces, conflicts between traffic and pedestrian, and road safety problems are severe, especially during Ching Ming and Chung Yeung Festival (photos at **Appendices IV(6)** and **IV(7)**) during which the number of visitors to the subject columbarium is peaked. The potential traffic impact from the 7 918 unsold niches has not been taken into account and it is anticipated that the traffic problem will be worsened after the remaining niches are sold;
- (e) the subject columbarium will increase pedestrian flow and attract strangers to the area and create public security problems;
- (f) as the subject columbarium is located next to the existing village dwellings, it would pose adverse environmental impacts on the surrounding areas, especially noise resulting from chanting/rituals and air pollution resulting from burning of incense and joss paper;
- (g) the operation of the columbarium will cause nuisance and adverse psychological and health impacts on the nearby residents, affecting the livelihoods of the local villagers;
- (h) the subject columbarium is surrounded by vegetation and residential structures. Illegal burning of offerings was observed (photos at **Appendix IV(7)**), proving that there is a lack of fire safety measures;
- (i) since the subject columbarium was found to have unauthorised building works on the adjoining government land, approving the application will set an undesirable precedent to similar use in “V” zone. Such practice of “breach first, apply later” should not be encouraged; and
- (j) the subject columbarium has been in operation for years, but columbarium use is not permitted under the lease. Approval of the application may be rewarding unauthorised use of land.

Supporting Comments (2 108)

- 10.4 The **2 108 supporting comments** were received from the Chairman of Kam Shan Village Committee and village representative of Kam Shan Village (**Appendix IV(10)**) and local villagers/residents and other individuals (**Appendix IV(11)** to **IV(13)**). Of the 2 108 supporting comments, 1 870 were received in the form of two types of standard letters. Their samples are at **Appendices IV(12)** and **IV(13)** respectively.

10.5 The major supporting grounds are summarised below:

- (a) the subject columbarium provides the necessary community facility and alternative burial services for the general public, and caters for the pressing demand for columbarium niches;
- (b) being located only 10 minutes' walk from the nearest Tai Wo MTR station, the columbarium is easy to access for people who wish to worship their ancestors;
- (c) the rules and the pre-visit online booking system can control the number of persons visiting the columbarium and no complaints were received on the trial restriction on date and time of access during the last Ching Ming Festival; and
- (d) the subject columbarium has been in operation for decades and it has been a part of the community with buffers between the Site and the nearby village houses. Therefore, the subject columbarium is not incompatible with its surrounding environment and the proposed change to "G/IC" zone is considered acceptable.

11. Planning Considerations and Assessments

The Proposal

11.1 The applicant proposes to rezone the Site from "V" to "G/IC(3)" in order to regularize the existing columbarium use providing a total of 13 426 niches and 3 049 memorial tablets in two 2-storey temple-cum-columbarium structures as well as one 3-storey ancillary office building with a total GFA of 971.7 m² (**Plan Z-4a** and **Drawings Z-3** to **Z-7**). Under the new set of Notes for the proposed "G/IC(3)" zone (**Appendix II**), 'Religious Institution' use will be put under Column 1 as always permitted use, whereas 'Columbarium' and 'Office' uses under Column 2 requiring planning permission from the Board. The subject columbarium is located within the village proper of Kam Shan Village. The rezoning application needs to be comprehensively assessed taking into account the village setting and technical concerns.

Religious Institution Use

11.2 The applicant claims that the Buddhist Cheung Ha Temple has been established since 1928. According to SHA's advice, the Buddhist Cheung Ha Temple is a bona fide religious organization. The applicant proposes to place 'Religious Institution' use under Column 1 (i.e. an always permitted use) of the new set of Notes for the proposed "G/IC(3)" zone. As mentioned in paragraph 4.1 above, if the 'Religious Institution' use is in existence before 30.7.2004 and has continued since its existence, it can be tolerated under the Town Planning Ordinance.

Land Use Compatibility

11.3 The Site is situated in an area of rural landscape character comprising village houses and scattered tree groups, and immediately adjoins existing residential dwellings.

It falls within the 'VE' of the recognized village of Kam Shan, and it forms an integral part of the village setting where village houses are found immediately to its north, west and east (**Plans Z-2a and Z-4a**). Amongst the 13 426 niches under the application, the applicant advises that 5 508 were sold before 30.6.2017, of which 3 816 niches have been occupied. In other words, there are still 7 918 niches available for sale in the columbarium. Access to the Site solely relies on the existing footpaths/stairs shared by the adjoining village houses which would inevitably bring nuisance to the local residents (**Plans Z-2a, Z-4b, Z-4g and Z-4h**). The columbarium use is considered not compatible with the existing village setting of the area. It would inevitably attract a large number of grave sweepers to the village causing nuisance and disturbance to the local residents in the village in particular those residential dwellings adjoining the Site and share the same accesses. There is no strong planning justification for rezoning of the Site from "V" to "G/IC(3)" to make provision for application for columbarium use. The current "V" zone for the Site is considered appropriate.

Traffic Impact and Crowd Management

- 11.4 the Site is not served by vehicular access. It is accessible from Kam Shan Road via shared footpath/stairs accesses with local villagers. To address the potential traffic problems caused by the development during the festival days and their shadow weekends, the applicant has submitted a TIA report (**Appendix II**) and proposed a 'pre-booking system' to control the maximum number of visitors to 212 visitors per half-hour session from 7am to 7pm; crowd/admission control measures including deployment of staff at the entrance and key locations to regulate the flow of the visitors; setting up of temporary directional signage with designated ingress/egress routings and waiting areas (**Drawings Z-8 to Z-10**); and proposed footpath/pavement widening of a section at Kam Shan Road to cater for the additional pedestrian flow during peak hours (**Drawing Z-11**). According to the TIA report, with the implementation of the above measures, the identified road junctions and footpaths in the area are anticipated to operate within their capacities during peak times.
- 11.5 C for T, noting that PCAO has confirmed to take up enforcement for the 'pre-booking system' arrangement under the Management Plan to be submitted to the Licensing Board, has no in-principle objection to the application from traffic engineering point of view subject to the implementation of the crowd management measures and the proposed footpath widening of a section of Kam Shan Road by the applicant, and the granting of the exclusive right of use of the proposed waiting areas on Government land to the applicant by the land authority. C of P has no objection to the application subject to the applicant's implementation of the proposed crowd management control plan as detailed in the TIA report.
- 11.6 According to DFEH's advice, the licence applicant is required to submit a Management Plan to the Licensing Board for consideration, demonstrating suitable measures on traffic arrangement or management taken to minimize any adverse impact that operation of the columbarium may have on the neighbourhood. Upon the approval of the licence by the Licensing Board, the PCAO will be responsible for monitoring the implementation of the Management Plan within the site boundary covered by the licence.

Other Technical Aspects

- 11.7 DEP has no objection to the rezoning application on the understanding that there is mechanism available at the s.16 planning application stage as well as under the PCO to ensure the applicant's implementation of the proposed environmental mitigation measures and good operational practices including control visitors number by 'pre-booking system'; restriction on opening hours; no burning of joss papers and paper offerings; and wastewater disposed via public sewerage.
- 11.8 Other Government departments consulted including CE/MN of DSD, CE/C of WSD, CHE/NTE of HyD, D of FS, H(GEO) and PM/N of CEDD and CTP/UD&L of PlanD have no objection to/no adverse comment on the application.

Land Administration

- 11.9 According to DLO/TP of LandsD, the existing columbarium use on Lots 1087 and 1130 is in contravention of the lease restrictions, and a warning letter has been registered in the Land Registry against these two Lots in 2016. Moreover, a large portion of the Site is government land (about 1,311.8m² or 74% of the site area), which is being occupied by part of the columbarium building and a number of temple-related features and temporary structures. Prosecution action has been taken by LandsD against the illegal occupation of government land and the defendant was convicted with fine in 2013.
- 11.10 DLO/TP of LandsD advises that waiver and STT applications may be considered for private columbarium purpose should they be submitted by the applicant after approval of the application by the Board. However, there is no guarantee at this stage that the waiver/STT applications would be approved. LandsD would consult FHB regarding the details of the subject case in considering the payment of fee/ rent and administrative fee that might be imposed.

Setting of Undesirable Precedent

- 11.11 There are two similar rezoning applications (No. Y/TP/18 and 27) covering the same site within the same "V" zone. Both applications were submitted by the same applicant and were rejected by the Committee on 8.11.2013 and 26.5.2020 respectively. For the last application (No. Y/TP/27), it was rejected by the Committee mainly on the grounds of being not compatible with the existing village setting of the area, particularly the residential dwellings located to its immediate west and south; and setting of undesirable precedent for other similar rezoning applications within the "V" zone. As far as land use compatibility is concerned, the circumstances of the current application are similar to the last rejected similar application (No. Y/TP/27).
- 11.12 There is no similar rezoning application approved by the Committee within the same "V" zone. The approval of the application would set an undesirable precedent and may encourage other similar applications for columbarium development in the same "V" zone. The cumulative effect of approving such applications would result in further proliferation of columbarium use in the "V" zone, thereby aggravating the land use incompatibility in the village environment.

Public Comments

11.13 The 2 108 supporting public comments are noted. For the 413 public comments objecting to the application, the planning assessments and comments of Government departments above are relevant.

12. Planning Department's Views

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

- (a) the Site falls within an area zoned "Village Type Development" ("V") with the planning intention primarily for development of Small Houses by indigenous villagers. The proposed columbarium use is considered not compatible with the existing village setting of the area, particularly the residential dwellings located to its immediate north, east and west. There is no strong planning justification for rezoning of the Site from "V" to "Government, Institution or Community (3)" ("G/IC(3)") to make provision for application for columbarium use. The current "V" zone for the Site is considered appropriate; and
- (b) the approval of the application would set an undesirable precedent for other similar rezoning applications within the "V" zone. The cumulative effect of approving such applications would result in further proliferation of columbarium use in the "V" zone, thereby aggravating the land use incompatibility in the village environment.

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

13. Decision Sought

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

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

14. Attachments

Appendix I Application form with supplementary information received on
17.7.2019

Appendix Ia	Planning statement attached to the application form
Appendix Ib	Further Information received on 23.9.2019
Appendix Ic	Further Information received on 3.12.2019
Appendix Id	Further Information received on 7.2.2020
Appendix Ie	Further Information received on 20.3.2020
Appendix If	Further Information received on 1.6.2020
Appendix Ig	Further Information received on 9.6.2020
Appendix Ih	Further Information received on 15.7.2020
Appendix Ii	Further Information received on 29.7.2020
Appendix Ij	Further Information received on 7.8.2020
Appendix Ik	Further Information received on 21.8.2020
Appendix II	Proposed Schedule of Uses for the “G/IC(3)” zone
Appendix III	Similar applications within the same “Village Type Development” zone on the Tai Po Outline Zoning Plan
Appendix IV	Sample of public comments
Drawings Z-1 to Z-11	Drawings submitted by the applicant
Plan Z-1	Location plan
Plans Z-2a and 2b	Site plans
Plan Z-3	Aerial photo
Plans Z-4a to 4h	Site photos

**PLANNING DEPARTMENT
SEPTEMBER 2020**