

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM/516

- Applicant** : WO Man Yee Wendy represented by Mr. HUI Kwan Yee
- Site** : Lots 1657 S.A (Part), 1657 S.B (Part) and 1657 S.C (Part) in D.D. 132, Tuen Mun, New Territories
- Site Area** : About 142.5m²
- Lease** : Lot 1657 S.A in D.D. 132:
- Demised for agricultural purpose
- Lot 1657 S.B and S.C in D.D.132:
- Demised for house and agricultural purposes
- Plan** : Draft Tuen Mun Outline Zoning Plan (OZP) No. S/TM/34
- Zoning** : “Government, Institution or Community” (“G/IC”)
- Application** : Temporary Eating Place and Shop and Services for a Period of Three Years

1. The Proposal

- 1.1. The applicant seeks planning permission to use the application site (the Site) for temporary eating place and shop and services for a period of 3 years. The Site, which is situated within the compound of a religious institution known as Ching Leung Nunnery, is currently used for restaurant and shop without valid planning permission (Photos 3 and 4 in **Plan A-4b**).
- 1.2. According to the Notes of the OZP for “G/IC” zone, ‘Shop and Services’ and ‘Eating Place (not elsewhere specified)’ are Column 2 uses which require planning permission from the Town Planning Board (the Board). The applicant seeks temporary permission for a period of 3 years.
- 1.3. According to the information submitted by the applicant, the major development parameters of the proposal are as follows:

Site Area	142.5 m ²
Total Floor Area	142.5 m ²
No. of Structures	2
No. of Storey	1 storey
Operation Hours	8:00 a.m. to 9:00 p.m. daily

No detailed information regarding operation of the eating place and shop and services, such as layout plan and seating capacity, has been provided by the applicant.

- 1.4. In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 15.12.2017 **(Appendix I)**
 - (b) Applicant's letters received on 16.3.2018 **(Appendix Ia)** providing responses to departmental comments
- 1.5. The lot index plan submitted by the applicant is at **Drawing A-1**.
- 1.6. At the request of the applicant, the Rural and New Town Planning Committee (the Committee) of the Board agreed on 9.2.2018 to defer making a decision on the application for two months to allow time to prepare supplementary information to support the application. The applicant submitted further information on 16.3.2018 **(Appendix Ia)** and the application is re-scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are summarised as follows:

- (a) The existing building at the Site originally used for kindergarten purpose was previously vacated. The applicant renovated the vacant building to serve the residents and visitors from the surrounding neighborhood. The proposal can promote tourism in Tuen Mun.
- (b) The application aims to provide a relaxing environment for visitors to enjoy. Only light refreshment, drinks will be provided in the eating place. It will unlikely cause adverse sewerage impact, noise or odour nuisance.
- (c) Loading/unloading activities could be carried out 30m away from the Ching Leung Nunnery. It is also anticipated that there will only be limited number of customers. Since all customers are aware that no car parking space is provided, they will go to the Site on foot.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is not a "current land owner" but has complied with the 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. 31A) by posting site notice and sending notice to the Tuen Mun Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

Town Planning Board Guidelines No. 16 for ‘Application for development/Redevelopment within “G/IC” zone for uses other than G/IC uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 16) is relevant to this application. The relevant extract of the Guidelines are as follows:

- (a) the proposed development should not adversely affect the normal operation of the existing GIC facilities nor delay the implementation of the planned GIC facilities within the “G/IC” site;
- (b) the proposed development should be compatible in land-use terms with the surrounding areas;
- (c) the scale and intensity of the proposed development should be in keeping with that of the adjacent area;
- (d) the proposed development should be sustainable in terms of the capacities of existing and planned infrastructure;
- (e) there should be adequate provision of parking and loading/unloading facilities and adequate vehicular access arrangements to serve the proposed development in accordance with the Hong Kong Planning Standards and Guidelines (HKPSG) and to the satisfaction of the Transport Department; and
- (f) the proposed development should not be susceptible to adverse environmental impacts.

5. Previous Application

There is no previous application at the Site.

6. Similar Application

There is no similar application within the same “G/IC” zone on the OZP.

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

7.1 The Site:

- (a) comprises a one-storey building structure and an attached pergola within the Ching Leung Nunnery (**Plans A-2 and A-4a**);

- (b) is currently used for restaurant (café) and bookshop without valid planning permission (**Plan A-4b**); and
- (c) has no vehicular access. It is accessible via two footpaths connected to Tuen Fu Road.

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

- (a) the Ching Leung Nunnery is mainly surrounded by religious institutions intermixed with scattered residential structures, amenity areas and vacant land. Religious institutions known as Tin Chai Benevolent (天濟善堂) and Gig Lok Monastery are located to the south and west of the Nunnery;
- (b) there are various structures within the Nunnery close to the Site including two Grade 3 historic buildings, named Fat Din (佛殿) and Ching Yan Siu Chok (淨恩小築);
- (c) to its north is a residential development known as Parkland Villas across Tuen On Lane;
- (d) to its south across Tuen Fu Road are Tuen Fu Road Disciplined Services Quarters and Tuen Mun North Offtake and Piggling Station.
- (e) to its further south across Castel Peak Road Lingnan section is the Tuen Mun Water Treatment Works which is a Potentially Hazardous Installation (PHI) (**Plan A-3**). The Site is within the Consultation Zone of the PHI.

8 Planning Intention

The “G/IC” zone is intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments.

9 Comments from Relevant Government departments

9.1 The following Government departments have been consulted and their views on the application and the public comments (if any) are summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) The Site falls within the Lot Nos. 1657 S.A (Part), 1657 S.B (Part) & 1657 S.C (Part) in D.D. 132 (‘the Lots’). According

to the land registry record, the original grant, rent lease term and the date of commencement of the mother lot cannot be traced. The Lot No. 1657 S.A in D.D. 132 is demised for 'Agricultural' purpose, while the Lot Nos. 1657 S.B and 1657 S.C in D.D. 132 are demised for 'House and Agricultural' purposes in accordance with the rent roll records of his Office. Erection of any structures on the lots is not allowed under the lease unless written consent of his Office has been obtained. Currently, a modification of Tenancy ('MOT') No. 20244 was issued on 11.4.1973 to permit structures on the Lots for the purpose of Kindergarten.

- (b) According to his site inspection, it was revealed that existing structure was found erected on the Lots within the Site for the 'Eating Place' purposes. As the MOT No. 20244 covering the existing structures on the Lots is for the purpose of Kindergarten, his Office reserves the right to take enforcement actions as considered appropriate against any unauthorized erections/ extension/ alternations irrespective of whether planning permission will be given or not.
- (c) The Site is accessible via a strip of Government land and private lots leading from Tuen Fu Road. His Office does not carry out maintenance works for the access road nor guarantee any right-of-way to the Premises.
- (d) Notwithstanding the above, should planning permission be given by the Town Planning Board, the owners of the lots may submit an application to his Office for short term waiver to change the use of the structure concerned. However, there is no guarantee that the application will be approved and he reserves his right to take any action as maybe appropriate. The application will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the application is approved, it would be subject to such terms and conditions as the Government shall deem fit to do so, including charging of waiver fee, deposit and administrative fee etc.

Traffic

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

- (a) He does not support the application from traffic engineering point of view.
- (b) Without detailed assessment of the traffic related issues, TD do not agree with the conclusion that traffic generated by the proposed use would result in no adverse impact to the surrounding road network.
- (c) It is noted that there is no vehicular access for the Site and

there would be trips generated/attracted and parking demands for the applied uses. According to the requirements of HKPSG for retail use, 1 no. of parking space and 1 no. of loading/unloading bay are required for the application. The applicant should demonstrate such requirements could be provided and traffic impacts are insignificant. Complaints regarding illegal parking in the vicinity were received by his office. The applicant should propose measures to prevent worsening of the illegal parking problems.

- (d) Based on the available information, the applicant does not demonstrate the fulfilment of the requirements of HKPSG and traffic impacts are insignificant.

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

He has no comment on the application as no existing vehicular access connects the Site to Tuen Fu Road and no vehicular access is proposed by the applicant.

Environment

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

- (a) The application is to seek permission for up to 3 years to operate an existing eating place and shop and services within existing Ching Leung Nunnery to support their visitor services from 8am to 9pm, 7 days a week. The Site is located in the “G/IC” zone of the Tuen Mun OZP No. S/TM/34 and within the consultation zone of Tuen Mun Water Treatment Works which is a PHI. The surrounding land uses are Gig Lok Monastery, Parkland Villas across Tuen On Lane and government quarters across Tuen Fu Road. There is also a fire station nearby.
- (b) There is no environmental information or technical information in the application to support this temporary change in land use. EPD is unable to support the application until there is further information to demonstrate the environmental acceptability of the proposed change from the environmental planning perspectives especially with regard to the sewage disposal through connection to existing sewer nearby.
- (c) The applicant is advised to refer to EPD’s guidelines ‘Control of Oil Fume and Cooking Odour from Restaurants and Food Business’ for the best practical control measures in preventing cooking emissions from causing air pollution problems.
- (d) With regard to WSD’s comments regarding the premises being within the consultation zone of Tuen Mun Water Treatment

Works which is a PHI, he has no objection from chlorine risk perspective.

- (e) Should the application be approved, the applicant should submit a sewerage impact assessment (SIA) to his satisfaction and implement the necessary sewerage works.

Drainage

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

- (a) He has no comment on the application from public drainage point of view. Should the application be approved, a condition should be included to request the applicant to maintain the drainage facilities for the Site to ensure that it will not cause adverse impact to the adjacent area. The applicant should also implement the sewerage works identified in SIA to his satisfaction.
- (b) His detailed comments on drainage facilities are provided in **Appendix III**.

Building Matters

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

- (a) There is no record of approval by the Building Authority for the structures existing at the Site.
- (b) His detailed comments are in **Appendix III**.

Fire Safety

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

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

Water Supply

9.1.8 Chief Engineer/Construction, Water Supplies Department (CE/C,

WSD)

The Site falls within the consultation zone of Tuen Mun Water Treatment Works, which is a PHI. Comments from DEP should be sought in this regard.

(Please see paragraph 9.1.4 for DEP's comment.)

Others

9.1.9 Comments of Director of Leisure and Cultural Services (DLCS)

He has no comments on the application on the understanding that no leisure facilities and roadside amenities under the purview of this Department will be affected.

9.1.10 Comments of Director of Food and Environmental Hygiene (DFEH)

He has no adverse comment on the application. The subject site is not covered by any valid licence/permit. The applicant is reminded to apply for the appropriate food licence if any food business is involved. Should any unlicensed food business be found operating at the subject premises, summons action will be taken by his district management whenever appropriate.

District Officer's Comments

9.1.11 Comments of District Officer (Tuen Mun), Home Affairs Department (DO(TM),HAD):

She had distributed consultation letters to the locals concerned and understood that they would provide their comments (if any) to the Board direct.

9.2 The following departments have no comments on/no objection to the application:

- (a) Project Manager (New Territories West), Civil Engineering and Development Department (PM/NTW, CEDD);
- (b) Commissioner of Police (C of P); and
- (c) Director of Electrical and Mechanical Services (DEMS).

10 Public Comments Received During Statutory Publication Period

- 10.1 On 22.12.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 12.1.2018, a total of 295 public comments were received. Amongst the public comments received, 276 of them raise objection, 15 provide views on the application and 4 indicate no comment on the application. Samples of the public comments received are in **Appendix II**. All the public comments

received are deposited at the Secretariat for Members' inspection at the meeting.

- 10.2 Most of the objecting comments (274) were from the residents, the incorporated owners and management company of a nearby residential development known as Parkland Villas. The main reasons for objection to the application are summarised as follows :
- (a) The proposal will impose adverse traffic impact to Tuen Fu Road. No parking space is proposed to serve the demand and the illegal parking problem will worsen and traffic accidents will increase;
 - (b) The proposal will generate sewage and waste and cause environmental nuisance to the nearby residents;
 - (c) There are columbaria inside the Nunnery. The application is to delay clearance actions;
 - (d) The shop and services use may change to columbarium use in future;
 - (e) Commercial activities to generate profit inside religious institution are inappropriate and approval of the case will set undesirable precedent. It is an insult to Buddhism;
 - (f) The nearby residential care home for the elderly will be affected by the increase in visitors; and
 - (g) There will be fire hazard concerns.
- 10.3 15 commenters from members of the public mainly provide views and concerns on the application with similar grounds as those summarized in paragraph 10.2 above.

11 Planning Considerations and Assessments

- 11.1 The current application is for the use of a disused kindergarten building within a religious institution in the "G/IC" zone for eating place and shop and services purposes on a temporary basis for 3 years. The "G/IC" zone is intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. The "G/IC" zone is also intended to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments. Applications for development/redevelopment within a "G/IC" zone for non GIC uses will be considered by the Board on individual merits. Whilst the applicant claims that the applied development is to serve the visitors to the religious institution, no detailed information on the applied development such as the seating capacity, the nature of the shop and services use, layout plan of the Site and parking and sewage disposal arrangement has been provided to facilitate the assessment of the impacts and planning merits of the applied development. The applied development is not entirely in line

with the planning intention of the “G/IC” zone and no strong justification has been given for a departure from the planning intention even on a temporary basis.

- 11.2 The applied development is located within a religious institution known as Ching Leung Nunnery, which is surrounded by religious institutions intermixed with scattered residential structures, amenity areas and vacant land. The applied uses are not incompatible with the surrounding developments.
- 11.3 The application is not in line with the TPB PG-No. 16. In this regard, C for T does not support the application from traffic engineering perspective and requests the applicant to demonstrate that sufficient parking and loading/unloading facilities will be provided in accordance with HKPSG. He is concerned that the applied use may worsen the existing illegal parking problem in the area. However, no information has been provided by the applicant to address C for T’s concerns. DEP also indicates that he is unable to support the application as there is no information to demonstrate the environmental acceptability of the applied uses, especially on sewage disposal aspect. No information has been provided by the applicant to address DEP’s concerns.
- 11.4 A total of 295 public comments were received, including 276 objections, 15 neutral comments and 4 with no views. The grounds of the public comments are summarised in paragraph 10 above. Comments from relevant Government departments in paragraph 9 and the planning considerations and assessments in the above paragraphs are relevant.

12 Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10, the Planning Department does not support the application for the following reasons:
- (a) the applied development is not entirely in line with the planning intention of the “G/IC” zone. There is no strong planning justification provided in the submission to justify a departure from the planning intention, even on a temporary basis; and
 - (b) the proposal does not comply with the Town Planning Board Guideline No. 16 in that the applicant fails to demonstrate that the applied development would not create adverse environmental and traffic impacts on the surrounding areas.
- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 4.5.2021. The following approval conditions and advisory clauses are suggested for Members’ reference:

Approval Conditions

- (a) no operation between 9:00 p.m. and 8:00 a.m., as proposed by the

applicant, is allowed on the Site during the planning approval period;

- (b) the existing drainage facilities for the Site shall be maintained at all times during the planning approval period;
- (c) the submission of sewerage impact assessment (SIA) within **6** months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board **by 4.11.2018**;
- (d) In relation to (c) above, the implementation of sewerage works identified therein within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board **by 4.2.2019**;
- (e) the submission of water supplies for fire fighting and fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board **by 4.11.2018**;
- (f) in relation to (e) above, the implementation of water supplies for fire fighting and fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board **by 4.2.2019**;
- (g) if any of the above planning conditions (a) or (b) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (h) if any of the above planning conditions (c), (d), (e) or (f) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

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

13 Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14 Attachments

Appendix I	Application form received on 15.12.2017
Appendix Ia	Applicant's letters received on 16.3.2018 providing responses to departmental comments
Appendix II	Public Comments received during statutory publication period
Appendix III	Detailed departmental comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Lot index plan submitted by the Applicant
Plan A-1	Location plan
Plan A-2	Site Plan
Plan A-3	Aerial photo
Plan A-4a to A-4b	Site photos

**PLANNING DEPARTMENT
MAY 2018**