

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/428

<u>Applicants</u>	: Chan Wing Cheong
<u>Site</u>	: Lot 1254 in D.D. 118, Tai Tong, Yuen Long, New Territories
<u>Site Area</u>	: 483.18m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Open Storage of Statues for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary open storage of statues for a period of 3 years. The Site falls within the “AGR” zone on the Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16 (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of 3 years within the zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. The Site is situated on fallow agricultural land and was not involved in any previous application.
- 1.2 According to the applicant’s submission, no parking space and vehicular access are proposed as the statues will be transported manually. The Site will only involve open storage of statues and shrines and there will be no structure on site. No religious activity will take place on site and it is not open to public
- 1.3 In support of the application, the applicant has submitted the following document:
 - (a) Application Form and plans received on 4.4.2018 (**Appendix I**)
 - (b) Supplementary Information received on 11.4.2018 (**Appendix Ia**) providing clarification on the use of the Site, traffic arrangement, and landscape treatment

2. Justifications from the Applicants

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the Application Form in **Appendix I** and Supplementary Information at **Appendix Ia**. They can be summarized as follows:

- (a) The application is for proposed open storage of statues related to 百家教道德宮. It is not for storage of cremated ashes. The Site is not open to public and there will be no religious activity on site. As such, no operation hours are proposed.
- (b) Within the Site, about 50 to 100 Buddhist and Taoist statues of heights varying from 50cm to 100cm will be stored. The statues will be transported manually and no vehicle will be involved.
- (c) There will be plantings surrounding the Site to enhance amenity. No tree is required to be preserved.

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.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13E) are relevant to the application. The Site falls within Category 1 areas under TPB PG-No.13E promulgated by the Board on 17.10.2008. The relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

The Site is currently not subject to any active enforcement action.

6. Previous Application

The Site was not involved in any previous application.

7. Similar Application

- 7.1 A total of 8 similar applications (No. A/YL-TT/234, 256, 292, 323, 336, 339, 346 and 348) for various types of open storage use with/without warehouse uses in the subject “AGR” zone had been considered by the Committee or the Board on review since the promulgation of TPB PG-No. 13E on 17.10.2008. Details of the applications are summarized in **Appendix III** and the locations of the sites are shown on **Plan A-1**.
- 7.2 All applications were rejected by the Committee or by the Board on review mainly on the grounds of not in line with the planning intention of the “AGR” zone; no/insufficient information to demonstrate that the development would not

generate adverse environmental, landscape and/or drainage impacts on the surrounding areas; insufficient information to demonstrate why suitable sites within the “OS” zone on the OZP cannot be made available for the development; setting an undesirable precedent for other similar applications; and not complying with the Town Planning Board Guidelines No. 13E for Application for Open Storage and Port Back-up Uses.

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

8.1 The Site is:

- (a) situated on fallow agricultural land; and
- (b) without vehicular access.

8.2 The surrounding areas have the following characteristics:

- (a) comprising mainly cultivated and fallow agricultural land;
- (b) to its east, southeast and south, graves and burial urns are found;
- (c) to its further south is a vegetated knoll;
- (d) to its north and northeast are two open storage yards, a storage yard, a vacant structure and a pond;
- (e) except for the open storage yard within the area zoned “Open Storage” to the north of the Site, the other open storage/storage yards in the vicinity of the Site are suspected unauthorized developments subject to enforcement action taken by the Planning Authority.

9. Planning Intention

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

10. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises an Old Schedule Agricultural Lot held under Block Government Lease which contains the restriction that no

structures are allowed to be erected without the prior approval of the Government.

- (b) The Site is accessible to Tai Shu Ha Road West via government land (GL) and private land. Her office does not provide maintenance work for GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to her office to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by her department acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by her department.

Traffic

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

It is noted that no vehicular access is proposed or to be granted under the application. He has no comment from highways maintenance point of view. If the application is approved, it is recommended that the applicant should be advised that it is understood from the application that there is and will be no vehicular access to/from the Site.

Agriculture and Nature Conservation

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

Their recent site inspection found that the Site is on fallow land. It possesses potential for agricultural rehabilitation. As such, the application is not supported from agriculture point of view.

Environment

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

Should the planning application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

Landscape

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

- (a) The Site, located to the west of Tai Shui Ha Road West lies in an area of “AGR” zone. The Site is not subject to any previous planning application. The current application seeks planning permission for open storage of statues for a period of 3 years.
- (b) With reference to the site photos dated 26.4.2018 and aerial photo of 2017, it is observed that the Site is a terraced farm with some graves observed in the vicinity. The Site is situated in an area of rural landscape character. The proposed use is not entirely compatible with the planned use, and surrounding environment and landscape character.
- (c) Having reviewed the submitted information, she has reservations on the application for the reasons above and below from the landscape planning perspective:
 - (i) It is observed that the Site is currently at a lower ground level when approaching from the adjoining area/footpath. Hence a degree of land filling and/or site formation is anticipated. Soil compaction may be incurred due to the proposed use. Any site formation and/or hard paving would contradict the intention “AGR” zone which is intended primarily to retain and safeguard good quality agricultural land for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.
 - (ii) Contrary to Supplementary Information (**Appendix Ia**), the landscape proposal was not submitted for consideration. Furthermore the submitted layout plan does not tally with the application boundary. Any hard paving and planting area should be indicated on plan.
- (d) Should the Board approve the application, in view of the above, she would advise the approval condition of submission and implementation of a landscape proposal to the satisfaction of the Director of Planning or of the Board be stipulated.
- (e) The applicant is advised that approval of the tree preservation and landscape proposal does not imply approval of tree works such as pruning, transplanting and/or felling under lease. Application for tree works should be submitted direct to DLO for approval.
- (f) Useful information on general tree maintenance is available for reference in 護養樹木的簡易圖解 (http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf) and the Handbook of Tree Management (Chinese Version: https://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html) published by the Greening, Landscape and Tree Management Section, Development Bureau.

Drainage

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

- (a) He has no objection in principle to the proposed development.
- (b) Should the application be approved, conditions requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development to his satisfaction or of the Board should be stipulated.

Water Supply

10.1.7 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

For provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to his department's standards.

Others

10.1.8 Comments of the Secretary for Home Affairs (S for HA):

- (a) Under the prevailing policy, land grant cases relating to religious facilities by religious organisations may be allowed a concessionary premium of 2/3 of the best alternative full market value with our policy support. The conditions that have to be satisfied for the Home Affairs Bureau to consider giving the aforesaid policy support are as follows –
 - (i) The applicant has to be a bona fide religious organisation;
 - (ii) The applicant has to be a charitable organization under section 88 of the Inland Revenue Ordinance; and
 - (iii) The facilities concerned are for places of worship and ancillary use.
- (b) Since the applicant does not fulfill the criteria (i) and (ii) above, he is unable to provide policy support to the planning application.

District Officer's Comments

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

The local consultation was completed on 8.5.2018 and his office has not received any comments from the village representatives in the vicinity regarding the application.

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

- (a) Commissioner for Transport (C for T);
- (b) Director of Fire Services (D of FS);
- (c) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (d) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (e) Director of Electrical and Mechanical Services (DEMS); and
- (f) Commissioner of Police (C of P).

11. Public Comments Received During the Statutory Publication Period

On 17.4.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 8.5.2018, 9 public comments were received from the Shap Pat Heung Rural Committee (**Appendix IV-1**), a Member of Yuen Long District Council (**Appendix IV-2**), the Resident Representative (RR) of Ngau Yiu Tau (**Appendix IV-3**), the Indigenous Inhabitant Representatives and RRs of Shui Chiu Lo Wai, Hung Cho Tin and Nam Hang (**Appendix IV-4**), two individuals (**Appendices IV-5 and IV-6**), the World Wide Fund for Nature Hong Kong (**Appendix IV-7**), Kadoorie Farm and Botanic Garden (**Appendix IV-8**) and Designing Hong Kong Limited (**Appendix IV-9**) all raising concern over or objection to the application on the following grounds:

- (a) no consultation with the Rural Committee and village representatives (**Appendix IV-1**);
- (b) insufficient information in the application (**Appendix IV-2**);
- (c) proximity to burial grounds of indigenous villagers (**Appendices IV-1 to IV-5**);
- (d) disrespect for Gods by storing the statues open-air (**Appendices IV-3 and IV-5**);
- (e) history of unauthorized use for burial urns and graves (**Appendices IV-3 to IV-5**);
- (f) legitimizing unauthorized development (**Appendices IV-6 to IV-9**);
- (g) environmental and/or landscape impacts (**Appendices IV-5 and IV-7**); and
- (h) not in line with the planning intention of “AGR” zone and not comply with TPB PG-No.13E (**Appendices IV-6 to IV-9**).

12. Planning Considerations and Assessments

12.1 The Site falls within Category 3 areas under the TPB PG-No. 13E. The following considerations in the Guidelines are relevant:

Category 3 areas: applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments/proposals to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions.

- 12.2 The subject application is for proposed temporary open storage of statues for a period of 3 years on the Site falling within an area zoned “AGR” on the OZP. The planning intention of the “AGR” zone is generally intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The proposed use is not in line with the planning intention of “AGR” zone. In this regard, DAFC does not support the application from the agricultural point of view as the Site possesses potential for agricultural rehabilitation. No strong planning justifications have been provided in the submission for a departure from the planning intention, even on a temporary basis.
- 12.3 The Site is situated in an area of rural landscape character comprising mainly fallow and cultivated agricultural land. CTP/UD&L, PlanD has reservations on the application as the proposed use is considered not entirely compatible with the surrounding environment and landscape character.
- 12.4 The application does not comply with TPB PG-No. 13E in that the Site falls within Category 3 areas and no previous approval for similar open storage uses have been granted for the Site; there are adverse comments from DAFC and CTP/UD&L, PlanD; and there are local objections with regards to the application (**Appendices IV-1 to IV-5**).
- 12.5 The 8 similar applications for various types of open storage/storage use with/without warehouse uses within the same “AGR” zone were all rejected by the Committee or by the Board on review (**Appendix III**). Approval of the current application will set an undesirable precedent. The cumulative effect of approving such similar applications, even on a temporary basis, would result in a general degradation of the rural environment and landscape quality of the area.
- 12.6 There are 9 public comments (**Appendices IV-1 to IV-9**) received during the statutory publication period raising concern over or objecting to the application for the reasons as summarized in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.5 are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments in paragraph 11, the Planning Department does not support the application for the following reasons:

- (a) the proposed development is not in line with the planning intention of the “AGR” zone which is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the proposed development is not compatible with the surrounding areas comprising mainly fallow agricultural land;
- (c) the development is not in line with the Town Planning Board Guidelines No. 13E for Application for Open Storage and Port Back-up Uses in that no previous approval has been granted for the Site and there are adverse departmental comments and local objections to the application; and
- (d) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

13.2 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 1.6.2021. The following approval conditions and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no vehicle is allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (b) the provision of boundary fence on the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 1.12.2018;
- (c) the submission of a landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 1.12.2018;
- (d) in relation to (c) above, the implementation of the landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 1.3.2019;
- (e) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 1.12.2018;
- (f) in relation to (e) above, the implementation of the drainage proposal 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 1.3.2019;

- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) if any of the above planning conditions (a) or (g) 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;
- (i) if any of the above planning conditions (b), (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; and
- (j) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

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

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

15. Attachments

Appendix I	Application Form and plans received on 4.4.2018
Appendix Ia	Supplementary Information received on 11.4.2018 providing clarification on the use of the Site, traffic arrangement, and landscape treatment
Appendix II	Relevant extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E)
Appendix III	Similar Applications within the subject “AGR” Zone on the Tai Tong OZP
Appendices IV-1 to IV-9	Public comments received during the statutory publication period
Appendix V	Recommended Advisory Clauses
Plan A-1	Location Plan with Similar Applications

Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2018**