

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKLN/51

- Applicant** : Pong Yuen Holdings Limited
- Site** : Lots 359 S.A and 359 RP in D.D. 80, Lin Ma Hang Road, Ta Kwu Ling North, New Territories
- Site Area** : 2,950m² (about)
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2
- Zoning** : “Green Belt” (“GB”)
- Application** : Proposed Temporary Research and InnoTech Centre for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary research and innotech centre for a period of three years at the application site (the Site) which falls within an area zoned “GB” on the OZP (**Plan A-1**). According to the OZP, temporary use or development of any land or buildings not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is currently covered with grass.
- 1.2 The proposal comprises three single-storey temporary structures with a total floor area of about 750m² (3m to 4.57m in height) for research (Structures A and B) and related activities purposes (Structure C). According to the applicant, the proposed development intends to provide a venue for students and scientists from the Department of Electrical Engineering (EE), City University of Hong Kong (CityU) to conduct researches and experiments related to robotics and artificial intelligence control systems (e.g. small unmanned vehicles). Only authorized person is allowed to enter the Site. A maximum of 20 students/staff will be accommodated within the Site each time and the frequency of site visit is expected to be once or twice a week. The operation hours of the development will be from 10:00 a.m. to 5:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. No car parking space and loading/unloading (L/UL) bay is proposed within the Site. The Site is accessible via Lin Ma Hang Road. The layout plan submitted by the applicant is shown in **Drawing A-1**.

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

- (a) Application Form with attachments received on 3.2.2023 (Appendix I)
- (b) Supplementary Information (SI) received on 9.2.2023 (Appendix Ia)
- (c) Further Information (FI) received on 15.5.2023* (Appendix Ib)
**accepted and exempted from the publication and recounting requirements*

1.4 On 31.3.2023, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's request to defer making a decision on the application for two months to allow more time for the applicant to address departmental comments.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendices I and Ib**, as summarized below:

- (a) the applicant, as one of the sponsors in support of EE of CityU's R&D and technology development, would like to provide the Site for the students and scientists of EE for education and research purposes;
- (b) the Site is considered suitable for conducting outdoor experimental work, in particular, those research projects (e.g. local and overseas robotics competitions) which require a large outdoor area for testing purpose; and
- (c) the potential impacts in terms of environment, traffic, landscape, etc. are minimal and significant adverse impacts are not anticipated.

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 Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No.31A) by obtaining the consent of current land owners. Detailed information would be deposited at the meeting for Members' inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for "Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance" (TPB PG-No. 10) are relevant to this application. The relevant extracts of the Guidelines are at **Appendix II**.

5. Background

The Site is not subject to any active planning enforcement actions.

6. Previous Application

The Site is not the subject of any previous applications.

7. Similar Application

There is no similar application within the same “GB” zone in the Ta Kwu Ling North area.

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

8.1 The Site is:

- (a) covered with grass;
- (b) some trees are observed at the southern periphery of the Site;
- (c) sandwiched between Heung Yuen Wai Stream to the north and a natural stream course to the south; and
- (d) accessible via Lin Ma Hang Road to the north.

8.2 The surrounding areas are predominantly rural in character comprising active/fallow agricultural land, ponds, temporary structures, tree clusters and woodland.

9. Planning Intention

The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

10. Comments from Relevant Government Departments

10.1 Apart from the government departments as set out in paragraph 10.2 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided at **Appendices III and IV** respectively.

10.2 The following government departments have the following comments on the application.

Traffic

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

- (a) in order to assess the potential traffic impact arising from the proposed development, the applicant should provide information for his consideration:
 - to justify the adequacy of the L/UL spaces during operation and construction stages of the proposed development.

Landscape

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

- (a) she has some reservations on the application from landscape planning perspective;
- (b) the Site is covered with self-seeded vegetation. Some trees of common species in fair condition are observed at the periphery of the southern site boundary. A watercourse and a pond are found along the southeastern site boundary and in the southeastern part of the Site respectively (**Plan A-2**). According to **Drawing A-1**, the proposed structures are neither in conflict with the existing trees nor watercourse/pond within the Site. Significant adverse impact on the existing landscape resources (i.e. the existing trees, and watercourse/pond) within the Site arising from the proposed use is not anticipated; and
- (c) the Site is located in an area of rural inland plain landscape character comprising ponds, woodland in the south, clusters of tree groups, active farmlands and vegetated areas. Some temporary structures within the "Recreation" zone to the west of the Site are observed (**Plan A-2**). The proposed use is not compatible with the surrounding environment. There is concern that approval of the application may alter the landscape character and degrade the landscape quality of the "GB" zone.

Nature Conservation

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

- (a) the Site is vacant and covered with common weeds with some common trees located at the southern boundary of the Site. A water channel seems to encroach onto the Site (**Plan A-2**). The applicant should specify the measures (e.g. screen planting to prevent human disturbances, etc.) to be implemented in order to avoid adverse impact on the water channel(s) nearby; and
- (b) it is noted from the aerial photos that the Site was cleared in 2022. The Board should consider if it is a case of "destroy first, develop later" which should not be encouraged.

District Officer's Comments

10.2.4 Local views/comments conveyed by the District Officer (North), Home Affairs Department (DO(N), HAD):

- (a) the Indigenous Inhabitant Representative (IIR) of Heung Yuen Wai objects to the application mainly on grounds that the proposed development is not in line with the planning intention of "GB" zone and would induce adverse traffic impact on the surrounding areas; land dispute is anticipated for using the private land sandwiched between the Site and Lin Ma Hang Road for vehicular run-in/run-out; and insufficient justification and information is provided in the submission concerning the operation details of the proposed use;

- (b) the Chairman of Fung Shui Area Committee and the incumbent North District Councilor of N16 Constituency have no comment on the application; and
- (c) the Resident Representative (RR) of Heung Yuen Wai and Ta Kwu Ling District Rural Committee do not reply.

11. Public Comments Received During Statutory Publication Period

On 10.2.2023, the application was published for public inspection. During the statutory public inspection period, a total of four public comments on the application were received from a member of North District Council, Kadoorie Farm & Botanic Garden Corporation (KFBGC), World Wildlife Fund-Hong Kong (WWF-HK) and an individual (**Appendix V**). The North District Council member indicates no comment on the application. The KFBGC, the WWF-HK and the individual object to the application mainly for being not in line with planning intention of the “GB” zone; the Site was subject to unauthorized large-scale vegetation clearance; and approval of the application would degrade the environmental quality.

12. Planning Considerations and Assessments

- 12.1 The application is for a proposed temporary research and innotech centre for a period of three years at the Site zoned “GB” on the OZP. The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features, and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. While the applicant claims that the Site is considered suitable for research/experiment purposes, there is no technical assessments/information in support of the application as well as to address the departmental concerns in terms of the traffic aspect and the existing landscape character/quality of the “GB” zone. The proposed development is considered not in line with the planning intention of the “GB” zone. There is no strong justification in the submission for a departure from such planning intention, even on a temporary basis.
- 12.2 The Site is covered with grass with its surrounding areas comprising active/fallow agricultural land, ponds, temporary structures, tree clusters and woodland. CTP/UD&L of PlanD considers that the proposed development is not compatible with the surrounding environment. There is concern that approval of the application may alter the landscape characters and degrade the landscape quality of the “GB” zone. In this regard, she has some reservations on the application from landscape planning perspective. As such, the application does not comply with TPB PG-No. 10.
- 12.3 C for T advises that information/assessment for justifying the adequacy of L/UL space during the operation and construction stages of the proposed development should be provided. With regards to the potential adverse impact on the water channels, DAFC advises that further information on the proposed measures (e.g. screen planting to prevent human disturbances, etc.) should be provided. There is no/insufficient information in the submission to demonstrate that the proposed development would have no adverse traffic impact and negative disturbances on the surrounding areas and the water channels respectively. Other relevant departments consulted, including DEP, CE/MN of DSD and D of FS, have no objection to or no adverse comment on the application.

- 12.4 Regarding the local comments conveyed by DO(N) of HAD as detailed in paragraph 10.2.4 and the public comments received during the statutory publication period as detailed in paragraph 11, government departments' comments and the planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the local comments conveyed by DO(N), HAD and the public comments as mentioned in paragraphs 10.2.4 and 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 "GB" zone which is primarily for defining the limits of urban and suburban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis; and
- (b) the proposed development is not in line with the Town Planning Board Guidelines No. 10 for "Application for Development within the Green Belt zone under Section 16 of the Town Planning Ordinance" in that the applicant fails to demonstrate in the submission that the proposed development would not affect the existing landscape and cause adverse traffic impact to the surrounding areas.

- 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 three years until 14.7.2026. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no operation between 5:00 p.m. and 10:00 a.m. from Mondays to Saturdays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no public announcement or any form of audio amplification system is allowed to be used on the Site at any time during the planning approval period;
- (d) 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 14.1.2024;
- (e) in relation to (d) above, the provision of drainage facilities 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 14.4.2024;
- (f) in relation to (e) above, the implemented drainage facilities on Site should be maintained at all times during the planning approval period;

- (g) the submission of proposals for fire service installations and water supplies for firefighting 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 14.1.2024;
- (h) in relation to (g) above, the implementation of proposals for fire service installations and water supplies for firefighting 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 14.4.2024;
- (i) the submission of a traffic review within 6 months from the date of planning approval to the satisfaction of the Commissioner of Transport or of the Town Planning Board by 14.1.2024;
- (j) in relation (i) above, the implementation of improvement measures identified therein within 9 months from the date of planning approval to the satisfaction of the Commissioner of Transport or of the Town Planning Board by 14.4.2024;
- (k) if any of the above planning condition (a), (b), (c) or (f) 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;
- (l) if any of the above planning condition (d), (e), (g), (h), (i) or (j) 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
- (m) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

Advisory Clauses

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

14. Decision Sought

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

15. Attachments

Appendix I	Application form received on 3.2.2023
Appendix Ia	SI received on 9.2.2023
Appendix Ib	FI received on 15.5.2023
Appendix II	Extracts of TPB PG-No. 10 for 'Application for Development within "Green Belt" Zone under Section 16 of the Town Planning Ordinance'
Appendix III	Government Departments' General Comments

Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

PLANNING DEPARTMENT
JULY 2023