

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TKO/122

- Applicant** : Lam Tin Kwun Yam Temple Limited represented by KTA Planning Limited
- Site** : Government Land to the south of Ma Yau Tong Central Sitting-out Area, S.D.3, Sai Kung, New Territories
- Site Area** : About 319m²
- Land Status** : Government Land
- Plan** : Approved Tseung Kwan O Outline Zoning Plan (OZP) No. S/TKO/28 [Draft Tseung Kwan O OZP No. S/TKO/27 at the time of submission. The zoning of the application site remains unchanged on the approved OZP] and Draft Kwun Tong (South) OZP No. S/K14S/23
- Zoning** : “Green Belt” (“GB”) (about 90%) (on Tseung Kwan O OZP) and “Open Space” (“O”) (about 10%) (on Kwun Tong (South) OZP)
- Application** : Religious Institution (Temple)

1. The Proposal

- 1.1 The applicant seeks planning permission for religious institution (temple) use at the application site (the Site) (**Plan A-1**). The Site falls within an area mainly zoned “GB” (about 90%) on the approved Tseung Kwan O OZP No. S/TKO/28 with a minor portion zoned “O” (about 10%)¹ on the draft Kwun Tong (South) OZP No. S/K14S/23. According to the Notes of the OZP, ‘Religious Institution’ is a Column 2 use in “GB” and “O” zones which requires planning permission from the Town Planning Board (the Board).
- 1.2 According to the applicant, the application is to facilitate the rebuilding of a single-storey temple building, which was demolished in 2011, and regularization of 12 structures scattered within the Site which are currently used for shrines, worships, storages, an incinerator, a porch and a shade in

¹ The minor portion falling within “O” zone does not fall into the allocation boundary of the Lam Tin Park.

support of the operation of the temple.

- 1.3 The opening hours of the temple are 6 a.m. to 6 p.m., Mondays to Sundays (including public holidays). The temple attracts worshippers particularly on the 1st and the 15th day of every lunar month and special events such as Kwun Yum Festival (觀音誕) which is held four times in every lunar year and the annual Festival of the Ghost (盂蘭節). According to the applicant, there would be about 50 to 60 visitors per day and 200 visitors during the festival days.

- 1.4 The development parameters of the temple are summarised below:

Site Area	About 319m ²
Plot Ratio (PR)	Not more than 0.267
Gross Floor Area (GFA) <ul style="list-style-type: none"> Proposed Temple Building 12 Existing Structures (including shrines, worships, storages, an incinerator, a porch and a shade) 	Not more than 85.136m ² <ul style="list-style-type: none"> Not more than 35.136m² (6.4m x 5.49m) Not more than 50m²
Site Coverage (SC)	Not more than 27%
No. of structures	13
Building Height (BH) <ul style="list-style-type: none"> Proposed Temple Building Existing Structures 	Not more than 3.66m Not more than 3.7m
No. of Storey	1

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

- (a) Application form received on 29.4.2021 **(Appendix I)**
- (b) Planning Statement received on 29.4.2021 **(Appendix Ia)**
- (c) Further Information (FI) received on 10.6.2021² **(Appendix Ib)**
- (d) FI received on 10.6.2021² **(Appendix Ic)**
- (e) FI received on 18.6.2021² **(Appendix Id)**

² Exempted from publication and recounting requirements.

- 1.6 The site layout plan, floor plan and section plan of the proposed temple building as submitted by the applicant are at **Drawings A-1 to A-2**.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendices I, Ia and Ib**. They can be summarised as follows:

- (a) The Site has been occupied by the applied use for over 50 years and the original temple building, which was a surveyed squatter structure, was demolished in 2011 after the collapse of the roof structure during the refurbishment works due to safety reason. There is a genuine need for the proposed temple building to provide a permanent sheltered space for the statues preciously housed in the original temple building and for religious rituals practices.
- (b) The site is a desirable location for traditional religious practice.
- (c) The scale of the temple is small and it is compatible with the surrounding natural environment. The in-situ rebuilding of the temple will be of the same size as the previous temple building and the remaining area within the Site will remain intact with ancillary structures such as shrines, incinerator and storage uses.
- (d) The temple complies with the Town Planning Board Guidelines No. 10 for development within “GB” zone.
- (e) The development would not affect the existing trees nor generate adverse air quality, landscape and geotechnical impacts on the surrounding area. As the visitors/worshippers will gain access to the Site via the existing footpaths, vehicular traffic generated by the temple will be minimal.

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

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

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Application for Development within “GB” Zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) is relevant to the application. The relevant assessment criteria are summarized as follows:

- (a) There is a general presumption against development (other than

redevelopment) in a “GB” zone. In general, the Board will only be prepared to approve application for development in the context of requests to rezone to an appropriate use.

- (b) Application for new development in “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The scale and intensity of the proposed development including the PR, SC and BH should be compatible with the character of surrounding areas.
- (c) Applications for Government, Institution or Community (G/IC) uses and public utility installations must demonstrate that the proposed development is essential and that no alternative sites are available.
- (d) The design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment.
- (e) The proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area.
- (f) The proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution.
- (g) Any proposed development on a slope or hillside should not adversely affect slope stability.

5. Previous Application

There is no previous application at the Site.

6. Similar Application

There is a similar application (No. A/TKO/8) for proposed religious institution with ancillary facilities within the same “GB” zone on the Tseung Kwan O OZP. The application was approved with conditions by the Rural and New Town Planning Committee (RNTPC) on 18.8.1995 mainly on the grounds that the existing temple had to be relocated to facilitate the clearance of the Tiu Keng Leng Cottage Area; the scale and intensity of the proposed development were considered acceptable; and the proposed development was compatible with the surrounding environment.

7. The Site and Its Surrounding Areas (Plans A-1 to A-3 and Photos in Plans A-4a to A-4b)

7.1 The Site:

- (a) is a piece of government land at the hillside of Ng Kwai Shan (Black Hill) currently occupied by some temporary structures of the applied use;
- (b) is located on a gentle slope along an existing footpath;
- (c) includes part of a retained slope (Slope Feature No. 11NE-D/C343); and
- (d) is accessible by footpaths connecting to Ma Yau Tong Central Sitting-out Area, the Mother of Earth Temple, Lam Tin Park and Wilson Trail Section 3.

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north is the Mother of Earth Temple which occupies a piece of government land within the same “GB” zone. To its further north is Ma Yau Tong Central Sitting-out Area;
- (b) to its immediate west is Lam Tin Park on the Kwun Tong (South) OZP; and
- (c) to its east and south are densely vegetated slopes of Ng Kwai Shan.

8. Planning Intentions

- 8.1 The planning intention of “GB” zone on the Tseung Kwan O OZP 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.
- 8.2 The planning intention of “O” zone on the Kwun Tong (South) OZP is intended primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

9. Comments from Relevant Government Departments

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

Policy Support

9.1.1 Comments from the Secretary for Home Affairs (SHA):

- (a) he is satisfied that the applicant is a bona fide religious and tax-exempted charitable organisation registered under section 88 of the Inland Revenue Ordinance (Cap. 112). As such, he has no objection to the captioned s16 planning application from the religious point of view; and
- (b) should the applicant wish to apply for concessionary land premium for the proposed development at a later stage, Home Affairs Bureau stands ready to consider granting policy support along the prevailing policy and established procedures.

Land Administration

9.1.2 Comments of the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD):

- (a) the Site falls within the proposed area of Short Term Tenancy (STT) No. SX4562 which the application was submitted by the applicant for a temple purpose arising from the regularization of the structures erected on unleased and unallocated government land. The STT application is under circulation where the boundary of the proposed STT is yet to be determined in view of the existing footpaths being affected; and
- (b) as the abovementioned STT application is still under circulation and there is no guarantee that such application would be approved irrespective of any approval of planning application. Should the proposed STT be approved, it would be subject to such terms and conditions including payment of rent and administrative fee as appropriate.

9.1.3 Comments of the District Lands Officer/Kowloon East, Lands Department (DLO/KE, LandsD):

- (a) for the portion of the Site within DLO/KE, it involves unleased and unallocated government land immediately adjoining to Lam Tin Park.
- (b) any approval by the Board shall not prejudice the Government's right to take appropriate action against any illegal occupation of government land identified at the Site.

9.1.4 Comments of the Manager/Squatter Control/New Territories East (1), Lands Department (Mgr/SC/NTE1, LandsD):

the previous temple building is a surveyed squatter (Survey No. XAND/76/77) in 1982, with dimensions of 21ft x 18ft x 12ft (L x B x H).

Traffic

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

he has no adverse comment from traffic engineering viewpoint.

Urban Design and Landscape

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

Urban Design

- (a) according to the submission, the proposed rebuilding comprises a one-storey (not more than 3.66m) temple building with a GFA of not more than 35.136m². The existing ancillary structures such as shrines, incinerator and storage spaces would be retained. Given the site context and its small scale, the development is considered not incompatible with the surrounding environment and would unlikely cause significant visual impact;

Landscape

- (b) according to the aerial photo of 2020 and the site photos taken on 20.5.2021, the Site is mainly a hard paved area located on a hillslope with some existing ancillary structures. Three existing trees of common species in fair condition are observed in the middle of the Site. The Site is located within an area of uplands and hillsides landscape character surrounded by dense woodland, with Lam Tin Park to the west and Ma Yau Tong Central Sitting-out Area to the north. Given the development is one-storey high (not more than 3.7m) and in small scale, which is similar to some buildings at the nearby parks, the development is considered not entirely incompatible with the surrounding environment; and
- (c) with reference to the supporting planning statement, the development would not affect the existing trees within the Site and all of them are proposed to be preserved. Although there is no direct vehicular access to the Site, the Site is near to a vehicular road exclusive to Environmental Protection Department (EPD) which terminates at Ma Yau Tong Central

Sitting-out Area, and reachable by various footpaths including one leading to Lam Tin Park. In view that significant landscape impact due to the development is not anticipated, she has no objection to the planning application from landscape planning perspective; and

- (d) approval of the section 16 application by the Board does not imply approval of the tree works such as pruning, transplanting and/or felling under lease. The applicant is reminded to approach relevant authority/ government department(s) direct to obtain necessary approval on tree works.

Environment

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

according to the information provided, the proposed rebuilding of temple involves no excavation nor filling of land. The applicant commits to follow “Guidelines on Air Pollution Control for Joss Paper Burning at Chinese Temples, Crematoria and Similar Places” and adopt relevant practices, such as incorporation of Best Available Technology design in the configuration of furnace, employment of trained operator to control the feeding rate of joss paper to furnace, etc. In view of the above, he has no objection to the application.

Nature Conservation

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

according to the applicant, the proposed temple building will be located at the footprint of the previous temple building where ground vegetation such as common weeds and herbs were found during site inspection. As no existing trees would be affected or felled, he has no comment on the application.

Fire Safety

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

- (a) he has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to the satisfaction of the D of FS; and
- (b) his detailed comments are at **Appendix IV**.

Building Matters

9.1.10 Comments of the Chief Building Surveyor/Hong Kong West, Buildings Department (CBS/HKW, BD):

his detailed comments are at **Appendix IV**.

Others

9.1.11 Comments of the Director of Leisure and Cultural Services (DLCS):

as no existing LCSD's facilities and areas would be affected, he has no comment on the application. Comments from the Kowloon Tree Team is at **Appendix IV**.

District Officer's Comments

9.1.12 Comments of the District Officer (Sai Kung) (DO(SK)):

no comment on the application from the works aspect. Two objections from Sai Kung local residents have been submitted to the Board directly.

9.1.13 Comments of the District Officer (Kwun Tong) (DO(KT)):

he has no comment on the application and no local objection against the application was received by his office.

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

- (a) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (b) Chief Engineer/Land Drainage Division, Drainage Services Department (CE/LDD, DSD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD);
- (d) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (e) Chief Highway Engineer/Urban Regional Office, Highways Department (CHE/Urban, HyD);
- (f) Commissioner of Police (C of P);
- (g) Director of Electrical and Mechanical Services (DEMS);
- (h) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD); and
- (i) Project Manager (East), Civil Engineering and Development Department (PM(E), CEDD).

10. Public Comments Received During Statutory Publication Period

- 10.1 On 7.5.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 28.5.2021, a total of 16 public comments were received (**Appendix III**). Amongst the public comments received, 12 from a Legislative Council Member (also a Kwun Tong District Council (KTDC) member), the Chairman of Kwun Tong Central Area Committee and 10 individuals support the application, with 4 comments incorporating signatures. Two comments from a Sai Kung District Council (SKDC) Member (also the Chairman of Sai Kung Rural Committee) and the Chairman of Sai Kung Area Committee object to the application. Two comments from individuals provide views on the application.
- 10.2 The grounds of the supporting comments are that the applied use has existed for a long period of time and can serve the local residents for their needs of religious practices. The opposing comments are mainly on the grounds that there are some existing temples in the surrounding area and the Site should be reserved for open space to serve the wider public. The remaining commenters raise concerns including fire safety, structural safety, the blockage of public access of the existing footpath within the Site, security, registration and management of the temple and air pollution related to joss paper burning. There is also suggestion to include an approval condition to prohibit niches within the Site.

11. Planning Considerations and Assessments

- 11.1 The application is to seek planning permission for 'Religious Institution (Temple)' use at the Site primarily zoned "GB" (90%) on the Tseung Kwan O OZP with a minor portion zoned "O" (10%)³ on the Kwun Tong (South) OZP. It involves the rebuilding of a single-storey temple building, which was a surveyed squatter in 1982 before the first publication of the Tseung Kwan O OZP in 1992, and regularization of the existing 12 ancillary structures of the temple including shrines, worships, storages, an incinerator, a porch and a shade. The planning intention of "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 the "GB" zone. Although the applied use is not entirely in line with the planning intention of the "GB" zone, according to the applicant, the application mainly involves rebuilding of the temple building, which will be of the same size as the previous building demolished in 2011⁴ and the temple has been serving the local residents for over 50 years. As such, sympathetic consideration may be given to the application.

³ The minor portion falling within "O" zone does not fall into the allocation boundary of the Lam Tin Park.

⁴ The surveyed squatter, with dimensions of 21ft x 18ft x 12ft (L x B x H), tallies with the dimensions of the proposed temple building.

- 11.2 The scale of the temple is small with a total site area of about 319m², out of which the proposed temple building will occupy only about 35.136m² with a BH of not more than 3.66m, and the other existing ancillary structures occupy not more than 50m² with a BH of not more than 3.7m. The remaining site area mainly comprises a footpath and a man-made slope. Given its nature and scale, the temple is considered not incompatible with the surrounding land use mainly comprising temple, sitting-out area and park surrounded by natural vegetation. As the Site is located at the fringe of a large “GB” zone, it is anticipated that the development would not affect the integrity of the “GB” zone given its small scale. According to the applicant, no existing tree within the Site would be affected and no adverse landscape impact is anticipated. CTP/UD&L and DAFC have no adverse comment on the application.
- 11.3 The application involves only rebuilding of the temple building and regularization of the existing ancillary structures. It would not generate adverse traffic impact, overstrain the capacity of the existing and planned infrastructure or affect slope stability. Relevant government departments including TD, DSD, WSD, FSD and CEDD have no adverse comment on/no objection to the application. The applicant also commits to adopt the “Guidelines on Air Pollution Control for Joss Paper Burning at Chinese Temples, Crematoria and Similar Places” and appropriate dust control measures during construction phase and DEP has no objection to the application. Thus, it is considered that the application generally complies with the criteria as set out in TPB PG-No. 10 in that the proposed development is considered compatible with the surrounding area; would not involve extensive clearance of existing natural vegetation or cause any adverse visual impact on the surrounding environment; would not overstrain the capacity of existing and planned infrastructure or affect slope stability; and would not be susceptible to adverse environmental effects or be the source of pollution. To address the concern on fire safety, an approval condition regarding the provision of FSIs is recommended at paragraph 12.2 below.
- 11.4 There is a similar application (No. A/TKO/8) for proposed religious institution with ancillary facilities within the same “GB” zone on the Tseung Kwan O OZP which was approved mainly on grounds that the scale and intensity of the proposed development were considered acceptable and the proposed development was compatible with the surrounding environment.
- 11.5 With regard to the public comments in paragraph 10.2 above regarding the concerns on fire safety, structural safety, security, registration and management of the temple and air pollution related to joss paper burning, departmental comments in paragraph 9 and planning assessments in paragraphs 11.2 and 11.3 above are relevant. Regarding the concern on public access of the existing footpath within the Site, it can be addressed through imposing Special Condition(s) at the STT application stage. For the suggestion to provide open space at the Site instead, the minor portion falling within the “O” zone does not fall into the allocation boundary of the Lam Tin Park. With respect to the suggestion to include an approval

condition to prohibit niches within the Site, it is considered unnecessary since 'Columbarium' use is not proposed in the application.

12. Planning Department's Views

12.1 Based on the assessment made in paragraph 11 and having taking into account the public comments in paragraph 10, the Planning Department has no objection to the application.

12.2 Should the Committee decide to approve the application, the permission shall be valid until 25.6.2025, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following condition of approval and advisory clauses are also suggested for Members' reference:

Approval Condition

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

Advisory Clauses

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

12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Member's reference:

the proposed development is not in line with the planning intention of "GB" zone which 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. The applicant fails to provide strong justification in the submission for a departure from the planning intention.

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.

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 29.4.2021
Appendix Ia	Supporting Planning Statement received on 29.4.2021
Appendix Ib	FI received on 10.6.2021
Appendix Ic	FI received on 10.6.2021
Appendix Id	FI received on 18.6.2021
Appendix II	Similar Applications
Appendix III	Public Comments
Appendix IV	Detailed Comments from Relevant Government Departments
Appendix V	Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Floor Plan and Section Plan of the Proposed Temple Building
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2021**