

# **TOWN PLANNING BOARD**

**TPB Paper No. 10935**

**For Consideration by  
the Town Planning Board on 3.11.2023**

**REVIEW OF APPLICATION NO. A/NE-TKLN/51  
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Proposed Temporary Research and Innotech Centre  
for a Period of Three Years in “Green Belt” Zone**

**Lots 359 S.A and 359 RP in D.D. 80,  
Lin Ma Hang Road, Ta Kwu Ling North, New Territories**

**REVIEW OF APPLICATION NO. A/NE-TKLN/51**  
**UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Proposed Temporary Research and InnoTech Centre  
for a Period of Three Years in “Green Belt” Zone**

**Lots 359 S.A and 359 RP in D.D. 80, Lin Ma Hang Road,**  
**Ta Kwu Ling North, New Territories**

**1. Background**

- 1.1 On 3.2.2023, the applicant, Pong Yuen Holdings Limited, sought planning permission for a proposed temporary research and innotech centre for a period of three years at the application site (the Site) under s.16 of the pre-amended Town Planning Ordinance (the pre-amended Ordinance). The Site falls within an area zoned “Green Belt” (“GB”) on the approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2 (**Plan R-1**).
- 1.2 On 14.7.2023, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application and the reasons were:
  - (a) the proposed development was not in line with the planning intention of the “GB” zone, which was 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 was a general presumption against development within this zone. There was no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis; and
  - (b) the proposed development was 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 failed to demonstrate in the submission that the proposed development would not affect the existing landscape and cause adverse traffic impact to the surrounding areas.
- 1.3 There is no change to the development parameters of the proposed development in the review application. To recapitulate, the site area is about 2,950m<sup>2</sup>. The proposal consists of three single-storey temporary structures with a total floor area of about 750m<sup>2</sup> (building heights of 3m to 4.57m) for research (Structures A and B) and its related activities purposes (Structure C) (Drawing A-1 of **Annex A**). 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). No car parking space and loading/unloading bays will be provided within the Site.

1.4 The Site is not the subject of any previous application.

1.5 For Members' reference, the following documents are attached:

- |     |                                                           |           |
|-----|-----------------------------------------------------------|-----------|
| (a) | RNTPC Paper No. A/NE-TKLN/51                              | (Annex A) |
| (b) | Extract of minutes of the RNTPC meeting held on 14.7.2023 | (Annex B) |
| (c) | Secretary of Town Planning Board's letter dated 28.7.2023 | (Annex C) |

## 2. **Application for Review**

On 15.8.2023, the applicant's representative applied under s.17(1) of the pre-amended Ordinance for a review of the RNTPC's decision to reject the application (**Annex D**). The applicant has not submitted any written representation in support of the review application.

## 3. **The Section 16 Application**

### **The Site and its Surrounding Areas (Plans R-1 to R-4)**

3.1 The situation of the Site and its surrounding areas at the time of the consideration of the s.16 application by the RNTPC was set out in paragraphs 8.1 and 8.2 of **Annex A**. There has not been any major change in the planning circumstances of the Site and the area since then.

3.2 The Site is:

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

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

### **Planning Intention**

3.4 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.

### **Town Planning Board Guidelines**

3.5 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) is relevant to the application. Relevant assessment criteria of the Guidelines is attached at Appendix II of **Annex A**.

### Previous Application

- 3.6 The Site is not the subject of any previous application.

### Similar Application

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

## **4. Comments from Relevant Government Departments**

- 4.1 Comments on the s.16 application made by relevant government departments are stated in paragraph 10 and Appendix III of **Annex A**.
- 4.2 For the review application, the relevant government departments have been further consulted. They all maintain their previous views on the s.16 application as set out in paragraph 10.2 of **Annex A** and have no further comment on the review application. Their previous views on the s.16 application are recapitulated below:

### Landscape

#### 4.2.1 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L of 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 R-2**). The proposed structures are neither in conflict with the existing trees nor watercourse/pond within the Site (Drawing A-1 of **Annex A**). 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 R-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

#### 4.2.2 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 R-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.

### Traffic

#### 4.2.3 Comments of Commissioner for Transport (C for T):

- (a) in order to assess the potential traffic impact arising from the proposed development, the applicant is required to justify the adequacy of the L/UL spaces during operation and construction stages of the proposed development.

#### 4.3 Local views/comments conveyed by the District Officer (North), Home Affairs Department under the s.17 application are as follows:

- (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 the “GB” zone; land dispute is anticipated for using the private land sandwiched between the Site and Lin Ma Hang Road for vehicular run-in/run-out; insufficient justification and information is provided in the submission concerning the operation details of the proposed use; and such innovative and research activities should be conducted within the campus area;
- (b) the incumbent North District Councilor of N16 Constituency has no comment on the application; and
- (c) the Chairman of Fung Shui Area Committee, Ta Kwu Ling District Rural Committee and the Resident Representative of Heung Yuen Wai do not reply.

## **5. Public Comments Received During Statutory Publication Period**

- 5.1 On 1.9.2023, the review application was published for public inspection. During the statutory public inspection period, two public comments were received, including one from a member of the North District Council indicating no comment on the application and another one from Kadoorie Farm & Botanic Garden Corporation (KFBGC) objecting to the application (**Annex E**). The major objection reasons are that the proposed development is not in line with the planning intention of the “GB”

zone; and that the “GB” zone is the result of the Board’s intention to protect Heung Yuen Wai Stream by imposing a riparian buffer zone.

- 5.2 Three objecting comments were received at the s.16 application stage as set out in paragraph 11 of **Annex A**.

## **6. Planning Considerations and Assessments**

- 6.1 The application is for a review of RNTPC’s decision on 14.7.2023 to reject the subject application for proposed temporary research and innotech centre for a period of three years mainly for the reasons as stated in paragraph 1.2 above. The applicant has not submitted any written representation in support of the review application. The major development parameters and layout of the proposed use remain unchanged in the review application. Since the consideration of the subject application by the RNTPC on 14.7.2023, there has been no major change in planning circumstances regarding the Site and its surrounding areas. The previous planning considerations and assessments in paragraph 12 of **Annex A** remain valid, which are recapitulated below.

### Planning Intention of the “GB” Zone

- 6.2 The Site falls within the “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 has not provided strong justifications that merit a departure from the aforementioned planning intention, even on a temporary basis. It is considered that the proposed use is not in line with the planning intention of the “GB” zone.

### Land Use Computability and TPB PG-No. 10

- 6.3 The Site is covered with grass and some trees are observed along the southern periphery of the Site. It is sandwiched between Heung Yuen Wai Stream to the north and a natural stream course to the south. The proposed temporary use is considered incompatible with the surrounding land uses which are rural in character and intermixed with active/fallow agricultural land, ponds, temporary structures, tree clusters and woodland. CTP/UD&L, PlanD has some reservations on the application from landscape planning perspective and considers that approval of the current review application would alter the landscape characters and degrade the landscape quality of the “GB” zone. As such, the proposed use is considered not in line with TPB PG-No. 10.

### Other Departmental Comments

- 6.4 C for T advises that information/assessment for justifying the adequacy of L/UL spaces during the operation and construction stages of the proposed development should be provided, without which potential traffic impact arising from the proposed use could not be ascertained. 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 concerned departments consulted including DEP, CE/MN of DSD and D of FS have no objection to or no adverse comment on the proposed use from environmental, drainage and fire safety perspectives respectively.

### Public Comments

- 6.5 Regarding the public comments objecting to the review application on the grounds as summarized in paragraph 5 above, the planning considerations and assessments in paragraphs 6.1 to 6.5 above are relevant.

## **7. Planning Department's Views**

- 7.1 Based on the assessments made in paragraph 6, having taken into account the public comments mentioned in paragraph 5 and given that there has been no major change in the planning circumstances since the consideration of the subject application by the RNTPC on 14.7.2023, Planning Department maintains its previous views of not supporting the review 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.
- 7.2 Alternatively, should the Board decide to approve the review application, it is suggested that the permission shall be valid until **3.11.2026**. The following conditions of approval and advisory clauses are also 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 3.5.2024;
- (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 3.8.2024;
- (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 3.5.2024;
- (h) in relation to (g) above, the implementation of the 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 3.8.2024;
- (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 3.5.2024;
- (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 3.8.2024;
- (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

7.3 The recommended advisory clauses are attached at **Annex F**.

## **8. Decision Sought**

8.1 The Board is invited to consider the application for a review of the RNTPC's decision and decide whether to accede to the application.



- 8.2 Should the Board decide to reject the review application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 8.3 Alternatively, should the Board decide to approve the review 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.

**9. Attachments**

<b>Plan R-1</b>	Location plan
<b>Plan R-2</b>	Site Plan
<b>Plan R-3</b>	Aerial Photo
<b>Plans R-4a and R-4b</b>	Site Photos
<b>Annex A</b>	RNTPC Paper No. A/NE-TKLN/51
<b>Annex B</b>	Extract of minutes of the RNTPC meeting held on 14.7.2023
<b>Annex C</b>	Secretary of the Town Planning Board's letter dated 28.7.2023
<b>Annex D</b>	Letter Dated 15.8.2023 from the applicant Applying for Review
<b>Annex E</b>	Public Comments
<b>Annex F</b>	Recommended Advisory Clauses

**PLANNING DEPARTMENT  
NOVEMBER 2023**