

**APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/I-CC/24

- Applicant** : Gaudi Investment Limited represented by Mr. KU Chun Yin
- The Premises** : G/F, 81 Tai San Praya Road, Cheung Chau
- Total Floor Area of the Premises** : 78.1m² (about)
- Site Area** : About 95.3m² (Includes Government Land of about 5m²)
- Land Status** : (a) Lots No. 412 RP, 411 RP and 411 S.C – Old Schedule House Lots with no specific development restrictions
(b) Lot 857 & Extension Thereto – New Grant Building Lot subject to building not exceeding 25 feet or 2 storeys in height
(c) Government land (about 5m² or 5.2%)
- Plan** : Draft Cheung Chau Outline Zoning Plan (OZP) No. S/I-CC/8 (Approved Cheung Chau OZP No. S/I-CC/7 was in force when the application was submitted)
- Zoning** : “Village Type Development” (“V”)
[maximum building height of 3 storeys (8.23m), or the height of the existing building, whichever is the greater] [zoning and development restriction remain unchanged on current draft OZP]
- Application** : Proposed Eating Place (Restaurant)

1. The Proposal

1.1 The applicant seeks planning permission for proposed eating place (restaurant) at the ground floor of 81 Tai San Praya Road, Cheung Chau (the Premises) (**Plans A-1 and A-2**). According to the Notes of the OZP, ‘Eating Place’ use other than those located on the ground floor of a New Territories Exempted House (NTEH) is a Column 2 use within “V” zone which requires planning permission from the Town Planning Board (the Board). According to District Lands Officer/Islands, Lands Department, the building at the subject site is not a NTEH.

1.2 In support of the application, the applicant has submitted the following document:

Application form received on 21.9.2020

(Appendix I)

1.3 This application involves a proposed eating place at the ground floor of an existing building erected on the subject site. According to the applicant, the proposed eating place, with a gross floor area (GFA) of about 78.1m², includes kitchen, bar, seating accommodation, lavatories and open yard. The proposed layout of the eating place submitted by the applicant is shown in **Drawing A-1**.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 10 of the application form at **Appendix I** and summarised as follows:

- (a) the proposed restaurant is to attract the tourists to Cheung Chau, and to increase restaurant choices for local residents; and
- (b) the operating hours of the restaurant is from 7am to 10pm every day.

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

The applicant is the one of the “current land owners” of 81 Tai San Praya Road and 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 taking reasonable steps to give notification to the owners including sending a notice to the Cheung Chau Rural Committee and posting site notice. For the adjoining government land, TPB PG-No. 31A is not applicable. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

TPB-PG No. 15A for ‘Application for Eating Place within “Village Type Development” Zone in Rural Areas under Section 16 of the Town Planning Ordinance’ (**Appendix II**) is relevant to this application. The relevant assessment criteria are extracted as follows:

- (a) the eating place use should not create any environmental nuisance or cause inconvenience to the residents nearby. Such use should preferably be located at the fringe of a village area, e.g. area abutting the main road;
- (b) the eating place use should not have any adverse traffic impacts on its surrounding areas nor should it affect any pedestrian circulation in the area;
- (c) sympathetic consideration may also be given to any application which would not have adverse impacts on drainage, sewage disposal facilities or fire safety aspects;
- (d) for any application on open ground as an extension to ground floor eating place in a NTEH or as a free-standing development, the eating place use should not adversely affect the land availability for village type development;

- (e) for a village located adjacent to recreational use or tourist attraction spots, favourable consideration may be given to eating place use which will provide catering facilities to serve the visitors and tourists; and
- (f) all other statutory or non-statutory requirements of relevant government departments should be met.

5. **Previous Application**

There is no previous application at the Premises.

6. **Similar Applications**

- 6.1 There are 7 similar applications (No. A/I-CC/4, A/I-CC/5, A/I-CC/6, A/I-CC/7, A/I-CC/19, A/I-CC/20 and A/I-CC/23) for proposed eating place/shop and services within “V” zone in the vicinity of the application premises. Details of the applications are summarised at **Appendix III** and their location is shown on **Plan A-1**.
- 6.2 All applications except application No. A/I-CC/6 were approved with condition by the Committee mainly on consideration that the proposed use was compatible with the general commercial cum residential uses in the vicinity, was small in scale and would not create any adverse traffic and environmental impacts.
- 6.3 Application No. A/I-CC/6 for proposed eating place (four storeys) with minor relaxation of the building height to 14m was rejected by the Committee on 19.9.2008 on the grounds that there was insufficient information or merits to justify a relaxation of the building height restriction, and that the approval would set an undesirable precedent for future development with alternative building height that might affect the 3-storey village housing character of Cheung Chau.

7. **The Premises, Site and Its Surrounding Areas (Plans A-1 to A-3 and photos on Plan A-4)**

- 7.1 The Premises is:
 - (a) located on the ground floor of an existing 2-storey village house, which is currently vacant on ground floor and the first floor is for residential use; and
 - (b) fronting Tai San Praya Road.
- 7.2 The surrounding areas have the following characteristics:
 - (a) predominately occupied by 2 to 4-storey village houses, most of which with shop and services or eating place uses on the ground floor; and
 - (b) Cheung Chau Ferry Pier is about 100m to the northwest of the subject site.

8. Planning Intention

The planning intention of the “V” zone is primarily for the provision of land for the retention of the existing village areas. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

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

Land Administration

9.1.1 Comments of the District Lands Officer/Islands, Lands Department (DLO/Is, LandsD):

- (a) Lots No. 412 RP, 411 RP and 411 S.C are Old Schedule House Lots (“OSHL”) carrying building status while Lot No. 857 and Lot No. 857 Extension are New Grant Building Lots (“NG Lots”);
- (b) lease terms of the subject lots are 75 years renewable for 24 years commencing 1.7.1898 and extended until 30.6.2047;
- (c) the OSHL are held under Block Government Lease, the lessees are required to seek LandsD’s prior approval before commencement of building works, and the buildings on the NG Lots shall not exceed 25 feet nor 2 storeys in height without the consent of DLO in writing. There is no particular restriction on the use of the application premises under lease; and
- (d) the building in which the application premises situates is not an NTEH, if considering the GFA provided in the application form (78.1m²) exceeds the roofed-over area of an NTEH (65.03m²) under the Buildings Ordinance (Application to the New Territories) Ordinance, Cap. 121.

Traffic

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

since the applicant only seeks planning permission for proposed ‘Eating Place (Restaurant)’ at the ground floor of the application premises, he considers that the application can be tolerated from traffic engineering point of view.

Environment

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

- (a) no objection on the application; and
- (b) he did not receive any environmental complaint in the past 3 years at the captioned area.

Building Matters

9.1.4 Comments of the Chief Building Surveyor/New Territories East 1 & Licensing, Buildings Department (CBS/NTE1&L, BD):

- (a) provided that the subject building is not NTEH under the Buildings Ordinance (Application to the New Territories), the comments are provided under the Buildings Ordinance (BO);
- (b) before any new building works are to be carried out on the application site, the prior approval and consent from the Building Authority should be obtained, otherwise they are unauthorized building works;
- (c) if there are existing structures which had been erected on leased land without approval of the BD (not being a NTEH), they are unauthorized under the BO and should not be designated for any approved use under the captioned application;
- (d) for authorized building works (UBW) erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the application site under the BO; and
- (e) if the proposed use under application is subject to the issue of a licence, please be reminded that the building safety and other relevant requirements as may be imposed by the licensing authority would need to be complied with.

Fire Safety

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

- (a) no specific comment on the application subject to fire service installations and water supplies for firefighting being provided to the satisfaction of his department; and
- (b) relevant fire service requirements will be formulated upon receipt of formal application from licensing authority.

Licensing Matters

9.1.6 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) there is a valid Food Factory Licence (GFA: 35.77m²) covering portion of the application premises;
- (b) there was no environmental hygiene nuisance in the past 12 months, against the licensed Food Factory;
- (c) anyone who would conduct any food handling or any class of food business at the application premises shall obtain a proper food licence issued by FEHD and a pre-requisite in complying with statutory plan restrictions is necessary. Moreover, no environmental nuisance shall be generated during the operation of the food business at the application premises;
- (d) an application for General Restaurant Licence at the application premises was received on 14.1.2019 and the application was later abandoned on 18.11.2019. No application for any food licence was received as at 8.10.2020; and
- (e) as at 27.10.2020, the Liquor Licensing Board did not receive any application for new issue of liquor licence in respect of premises. No valid liquor licence was issued to the subject premises.

District Officer's Comments

9.1.7 Comments of the District Officer (Islands), Home Affairs Department (DO(Is), HAD):

his office has not received any comment on the application from the public.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Chief Engineer/Hong Kong & Islands, Drainage Services Department;
- (c) Commissioner of Police; and
- (d) Head of the Sustainable Lantau Office, Civil Engineering and Development Department.

10. Public Comments Received During Statutory Publication Period

On 29.9.2020, the application was published for public inspection. During the first 3-week statutory public inspection period, which ended on 20.10.2020, one public comment objecting to the application was received from a Peng Chau/Cheung Chau/Lamma Area Committee member (**Appendix IV**). The major grounds of objection include adverse traffic impact to the area along Praya Street and Tai Hing Tai Road and concerns on overcrowding and pedestrian safety during public holidays, adverse environmental hygiene impact, and concerns on potential noise impact if the restaurant holds a liquor licence.

11. Planning Considerations and Assessments

- 11.1 The applicant seeks planning permission for eating place (restaurant) use at the Premises falling within the “V” zone, which is primarily for the provision of land for the retention of the existing village areas. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Although the building of which the Premises is located is not a NTEH within which the provision of ‘Eating Place’ on G/F is always permitted, it is in the form of a typical village house. The proposed eating place at the Premises is considered in line with the planning intention to allow relevant commercial uses on G/F of village houses to serve the needs of the villagers.
- 11.2 The Premises is located at Tai San Praya Road which connects to the Cheung Chau Ferry Pier in about 100m via Praya Street. Commercial uses such as restaurants and retail shops on the ground floor along Tai San Praya Road are shown in site photos on **Plan A-4**. The proposed eating place is considered not incompatible with the commercial uses provided within village houses in the vicinity, in particular the developments along Tai San Praya Road and Praya Street near the Cheung Chau Ferry Pier, where restaurants and retail shops on the ground floor of village houses are very common.
- 11.3 The proposed eating place is generally in line with the planning criteria set out in TPB PG-No. 15A in that the Premises is located at the fringe of a village area and could provide catering facilities to serve the visitors and tourists; and the proposed use would not have any adverse impacts on traffic, drainage, sewage disposal or fire safety aspects. Relevant government departments including C for T, CE/HK&I of DSD, DEP, D of FS and DFEH have no objection to or no adverse comments on the application. The proposed eating place will also be subject to control by the licensing authority.
- 11.4 One public comment has been received objecting to the application with concern on potential adverse impacts brought by the proposed development as set out in paragraph 10. In this regard, paragraphs 11.2 and 11.3 above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the planning permission shall be valid until 20.11.2024, 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 Director of Fire Services or of the Town Planning Board.

Advisory Clauses

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

- 12.3 There is no strong reason to recommend rejection of the application.

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 date when the validity of the permission should expire.
- 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

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| Appendix I | Application Form received on 21.9.2020 |
| Appendix II | Town Planning Board Guidelines for 'Application for Eating Place within "Village Type Development" Zone in Rural Areas under Section 16 of the Town Planning Ordinance' (TPB PG-No. 15A) |
| Appendix III | Similar Applications within "V" Zone on the OZP |
| Appendix IV | Public Comment received during the Statutory Publication Period from 29.9.2020 to 20.10.2020 |
| Appendix V | Advisory Clauses |
| Drawing A-1 | Floor Plan of the Proposed Eating Place |
| Plan A-1 | Location Plan |
| Plan A-2 | Site Plan |

Plan A-3
Plan A-4

Aerial Photo
Site Photos

PLANNING DEPARTMENT
NOVEMBER 2020