

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

**APPLICATION NO. A/SK-HH/73**

- Applicant** : The Woodland Sai Kung Pre-School Limited represented by Mass Concept Ltd.
- Premises** : Shop D & Yard, G/F, Marina Cove Shopping Centre, Sai Kung
- Floor Area** : About 697m<sup>2</sup>
- Lease** : Lot 526 in D.D. 210 and extension  
(a) to be expired on 30.6.2047  
(b) commercial development shall not be used for any purpose other than non-industrial purposes (excluding residential) and comprising shops including a supermarket, restaurant, and workshops for boat repairing and associated facilities
- Plan** : Approved Hebe Haven Outline Zoning Plan (OZP) No. S/SK-HH/6
- Zoning** : “Other Specified Uses” annotated “Residential cum Marina Development”
- Application** : Temporary School (Kindergarten) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for a temporary school (kindergarten) for a period of 3 years. The Premises are the subject of four previous applications (No. A/SK-HH/45, A/SK-HH/54, A/SK-HH/69 and A/SK-HH/71) for the same temporary use submitted by the applicant, which were approved with conditions by the Rural and New Town Planning Committee (the Committee) on 18.9.2009, 7.9.2012, 18.9.2015 and 23.12.2016 respectively. The last planning permission (Application No. A/SK-HH/71) was revoked on 24.6.2017 because the planning condition related to fire service installations has not been complied with by the specified date. The current proposal is the same as the previously approved scheme. The Premises are being used as the applied use without a valid planning permission.
- 1.2 The Premises fall within an area zoned “Other Specified Uses” annotated “Residential cum Marina Development” (“OU(Residential cum Marina Development)”) on the approved Hebe Haven OZP No. S/SK-HH/6 (**Plan A-1**). According to the Notes of the OZP, temporary school (kindergarten) for a period not exceeding 3 years requires planning permission from the Town Planning Board (the Board). The kindergarten has a total floor area of about 697m<sup>2</sup>,

including 597m<sup>2</sup> for 5 classrooms, activity area, office and play area as well as 100m<sup>2</sup> for an outdoor play area (**Drawing A-1**).

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

- (a) Application Form dated 6.12.2017 (Appendix I)
- (b) Planning Statement (Appendix Ia)

## 2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Planning Statement at **Appendix Ia** and can be summarised as follows:

- (a) The applicant has obtained a kindergarten license from the Education Bureau. In the past 40 years, over 60,000 students received quality education from the applicant's company.
- (b) In the school year 2017-2018, there are 130 pre-school students enrolled for nursery and all kindergarten levels (i.e. K1 to K3). The high quality international standard bilingual education is responding to the local demand and is fully supported by the parents.
- (c) The kindergarten layout approved under the Kindergarten Licence remains unchanged which gives a decent and effective learning/teaching environment. The school layout comprises 5 classrooms, 2 activity rooms, a pantry, toilet facilities, a sick bay, administrative office, indoor play area and outdoor play area.
- (d) The applicant has strictly implemented the advice of the traffic report prepared by the traffic consultants. The applicant provided compulsory school bus service comprising three 16-seated school buses. These buses will run on two routes each and provide transportation from the outlying areas around Sai Kung and Clear Water Bay areas for the school children. With school buses and internal parking facility (drop-off/pick up) within Marina Cove, the school use will not cause any traffic congestion. This arrangement will be maintained and being confirmed by the landlord.
- (e) The traffic signs, as per the instruction of Transport Department, are well maintained on site.
- (f) The temporary kindergarten at the Premises was first approved with conditions (Application No. A/SK-HH/45) by the Committee in 2009. Subsequently, the planning permission was renewed. Since the planning condition (related to fire service installations) of the last planning permission (Application No. A/SK-HH/71) has not been complied with within 9 months, a fresh application is submitted to the Board for consideration. The approval condition regarding fire service installations cannot be complied with due to discrepancies and difference in views on compliance checking between the applicant and Fire Services Department. Nevertheless, the installed fire service installations are properly maintained by a registered fire service contractor till now.

### **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 giving notification. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Previous Applications**

- 4.1 There are seven previous applications (Applications No. A/SK-HH/22, 43, 44, 45, 54, 69 and 71) at the Premises (**Plans A-1 and A-2**).
- 4.2 Application No. A/SK-HH/22 for a temporary child care centre and kindergarten at the Premises for a period of 3 years was approved with conditions by the Committee on 27.10.2000. The planning approval expired on 27.10.2003.
- 4.3 Application No. A/SK-HH/43 for a temporary kindergarten occupying the southern half portion of the Premises for a period of 3 years was approved with conditions by the Committee on 27.2.2009. The planning approval expired on 27.2.2012.
- 4.4 Application No. A/SK-HH/44 for a temporary kindergarten at the Premises for a period of 3 years was rejected by the Committee on 10.7.2009. The rejection reasons include (a) there was insufficient information in the submission to demonstrate that the traffic arrangement for school children by school bus as proposed in the application could be implemented and enforced; and (b) the proposed development might aggravate the existing traffic conditions of the area, and might have adverse traffic impact on Hiram’s Highway.
- 4.5 Application No. A/SK-HH/45 submitted by the same applicant for a temporary kindergarten at the Premises for a period of 3 years with the submission of a traffic report to address the concerns raised by Commissioner for Transport was approved with conditions by the Committee on 18.9.2009. The permission was renewed twice under Applications No. A/SK-HH/54 and A/SK-HH/69 which were approved by the Committee on 7.9.2012 and 18.9.2015 respectively with the same conditions imposed. The permission under planning application No. A/SK-HH/69 was revoked on 19.3.2016 because the planning condition related to fire service installations had not been complied with by the specified date.
- 4.6 Application No. A/SK-HH/71 for the same use submitted by the same applicant was approved with conditions by the Committee on 23.12.2016. The planning permission was revoked on 24.6.2017 as the planning condition on implementation of fire service installations had not been complied with by the specified date.

## **5. Similar Applications**

There are five similar applications (Applications No. A/SK-HH/26, 41, 46, 58 and 59) within the “OU (Residential cum Marina Development)” zone (**Plan A-1**). All these applications are for development of learning/training/education centre and tutorial school on temporary basis within the Marina Cove Shopping Centre. All of them were approved with conditions by the Committee. Details of the applications are summarized at **Appendix II** and their locations are shown on **Plans A-1** and **A-2**.

## **6. The Premises and Its Surrounding Areas (Plans A-1 to A-3 and Photos in Plans A-4a and A-4b)**

6.1 The Premises are:

- (a) one of the shops within Marina Cove Shopping Centre which is a single storey free-standing commercial block in the Marina Cove development and currently used as a kindergarten; and
- (b) accessible from Hiram’s Highway through the vehicular access at the northern entrance of the Marina Cove development and connected by a footbridge to the other commercial blocks of the Marina Cove Shopping Centre.

6.2 Within the Marina Cove Shopping Centre, there are also some tutorial schools and learning centres. Surrounding Marina Cove Shopping Centre are commercial and clubhouse buildings and low-density residential houses in Marina Cove.

## **7. Planning Intention**

The planning intention of “OU(Residential cum Marina Development)” zone is for a mixed development of residential, marina and limited commercial retail uses. It covers the existing Marina Cove, which has been fully developed with low-density housing including commercial and marina facilities in accordance with the approved Master Layout Plan.

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

8.1 The following government departments have been consulted and their views on the application and public comments received are summarised as follows:

### **Land Administration**

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

- (a) there is no objection to the application; and

- (b) the application premises are located within the commercial development of Marina Cove at Lot 526 in D.D. 210 (“the Lot”) and the Extension thereto. According to the lease conditions of the Lot, commercial development shall not be used for any purposes other than non-industrial purposes (excluding residential) and shall comprise a gross floor area of not less than 1,858m<sup>2</sup> nor more than 5,574m<sup>2</sup>, with shops including a supermarket, restaurant, and workshops for boat repairing and associated facilities.

### **Traffic**

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

No in-principle objection to the application from traffic engineering viewpoint provided that existing traffic/transport arrangements stated in Para. 7.0 of the Planning Statement (**Appendix Ia**) are maintained. The following planning condition is suggested:

“To implement and maintain the traffic arrangement as proposed by the applicant during the approval period to the satisfaction of the C for T or of the Board.”

### **Drainage**

#### 8.1.3 Comments of Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD):

- (a) no in-principle objection to the application from drainage maintenance viewpoint; and
- (b) adequate stormwater drainage collection and disposal facilities should be provided in connection with the proposed development to deal with the surface runoff of the application site or the same flowing on to the site from the adjacent areas without causing any adverse drainage impacts or nuisance to the adjoining areas.

### **Building Matters**

#### 8.1.4 Comments of Chief Building Surveyor/New Territories East 2 & Rail, Buildings Department (CBS/NTE2 & Rail, BD):

- (a) no in-principle objection under the Buildings Ordinance (BO) on the planning application;
- (b) the applicant should be reminded that the temporary school (kindergarten) is required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority; and
- (c) the granting of the planning approval should not be construed as an acceptance of the unauthorized structures on site under the BO.

Enforcement action may be taken to effect the removal of all unauthorized works in future.

### **Fire Safety**

#### 8.1.5 Comments of Director of Fire Services (D of FS):

No specific comment on the application provided that the existing fire service installations are maintained in efficient working order.

#### 8.2 The following departments have no objection to/comment on the application:

- (a) District Officer/Sai Kung, Home Affairs Department;
- (b) Secretary for Education;
- (c) Chief Engineer/Construction, Water Supplies Department; and
- (d) Chief Highway Engineer/New Territories East, Highways Department.

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

On 15.12.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 5.1.2018, 39 public comments from the individuals of the public were received (**Appendix III**). 1 commenter object to the application mainly on grounds that the kindergarten should not operate until it fully complies with FSD's requirements. 38 commenters support the application because there is a need for a kindergarten in the area and it can provide high quality school facility in the Sai Kung area.

### **10. Planning Considerations and Assessments**

- 10.1 The use of kindergarten at the Premises was first approved with conditions (Application No. A/SK-HH/45) by the Committee on 18.9.2009. Subsequently, renewal of planning permission (Applications No. A/SK-HH/54 and A/SK-HH/69) and application for the same temporary use (Application No. A/SK-HH/71) were also approved with conditions by the Committee on 7.9.2012, 18.9.2015 and 23.12.2016 respectively. Since the approval of the previous applications, there has been no material change in planning circumstances. Approval of the kindergarten use on a temporary basis would not frustrate the planning intention of the "OU (Residential cum Marina Development)" zone.
- 10.2 The kindergarten is located within a free-standing single storey commercial block within Marina Cove development. It is considered not incompatible with the existing uses such as tutorial schools and shops within the same and surrounding commercial and clubhouse buildings within Marina Cove development. Relevant government departments consulted have no objection to the application.
- 10.3 The last planning permission was revoked as the applicant failed to comply with the approval condition on implementation of fire service installations and provision of water supplies for fire fighting by the specified date. The applicant has in this application stated that the school and entire building are fitted with all

required fire service installations such as sprinkler system, emergency lights, exit signage etc. and are maintained by qualified fire service contractors. D of FS has no specific comment on the application provided that the existing fire service installations are maintained in efficient working order. Based on D of FS's comments, relevant planning condition is suggested at para. 11.2.

- 10.4 The applicant has implemented the recommendations in the traffic report (**Drawing A-2**) to the satisfaction of C for T and fulfilled the planning condition on traffic aspect in the previous planning permissions (Applications No. A/SK-HH/45, 54, 69 and 71) during the approval periods to the satisfaction of C for T. C for T has no objection to the current application and suggests to impose the same planning condition requiring the applicant to implement and maintain the traffic arrangements should the application be approved.
- 10.5 The public comments supporting the application are noted. Regarding the public comment objecting to the application on fire safety aspect, the assessment in paragraph 10.3 above is relevant.

## 11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments in paragraph 9 above, the Planning Department considers that the temporary kindergarten could be tolerated for a period of 3 years.
- 11.2 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 26.1.2021. The following approval conditions and advisory clauses are also suggested for Members' reference:

### *Approval Conditions*

- (a) to implement and maintain the traffic arrangements as proposed by the applicant during the approval period to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (b) to maintain the fire service installations at the Premises in efficient working order during the approval period to the satisfaction of Director of Fire Services or of the Town Planning Board; and
- (c) if any of the above planning condition (a) or (b) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

### *Advisory Clauses*

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

- 11.3 There is no strong reason to reject the application.

**12. Decision Sought**

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.
- 12.3 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.

**13. Attachments**

<b>Appendix I</b>	Application form dated 6.12.2017
<b>Appendix Ia</b>	Planning Statement submitted by applicant
<b>Appendix II</b>	Similar planning applications for school use within the “OU (Residential cum Marina Development)” zone
<b>Appendix III</b>	Public comments
<b>Appendix IV</b>	Advisory clauses
<b>Drawing A-1</b>	Layout plan
<b>Drawing A-2</b>	Traffic arrangement of the proposed kindergarten
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a &amp; 4b</b>	Site Photos

**PLANNING DEPARTMENT  
JANUARY 2018**