

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

**APPLICATION NO. A/SK-PK/258**

- Applicant:** Mrs. Yeung Wai Man Helen
- Site:** Government Land in D.D. 215, Sai Kung, New Territories
- Site Area:** About 21 m<sup>2</sup>
- Land Status:** Government Land
- Plan :** Approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No. S/SK-PK/11
- Zoning:** Area shown as 'Road'
- Application:** Renewal of Planning Approval for Temporary Eating Place (Outside Seating Accommodation of Restaurant Only) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning approval to use the application site (the Site) for temporary eating place (outside seating accommodation of restaurant only) (OSA) for a period of three years. The Site (**Plans A-1 and A-2**) falls within an area shown as 'Road' on the approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No. S/SK-PK/11. For areas shown as 'Road' on the OZP, all uses or developments require planning permission from the Town Planning Board (the Board).
- 1.2 The Site was subject of five previous applications (Applications No. A/SK-PK/122, A/SK-PK/151, A/SK-PK/170, A/SK-PK/206 and A/SK-PK/236) for the same use on a temporary basis for three years, the last of which was approved by the Rural and New Town Planning Committee (the Committee) on 28.4.2017. The planning permission will lapse on 28.4.2020.
- 1.3 In support of the application, the applicant has submitted the application form dated 18.2.2020 at **Appendix I**.
- 1.4 The layout plan submitted by the applicant is shown in **Drawing A-1**.

1.5 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 3.4.2020 (the previous application was valid up to 28.4.2020) for consideration of the application has been rescheduled, and the Town Planning Board has agreed to defer consideration of the application. The application is now scheduled for consideration by the Committee at this meeting.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in part 9 of the application form at **Appendix I**. They can be summarised as follows:

- (a) Sai Kung is a tourist destination for food and sightseeing; and
- (b) the use under application would provide the best environment and relaxing time to customers.

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

As the Site involves government land only, the “owner’s consent/ notification” requirements is not applicable to the application.

## **4. Town Planning Board Guidelines**

The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C) are relevant to the application. The relevant assessment criteria are attached at **Appendix II**.

## **5. Previous Applications**

There are five previous applications (Applications No. A/SK-PK/122, A/SK-PK/151, A/SK-PK/170, A/SK-PK/206 and A/SK-PK/236) for the same use at the Site. The previous applications were approved on a temporary basis for a period of three years with conditions by the Committee on 22.11.2002, 29.9.2006, 29.1.2010, 7.2.2014 and 28.4.2017 respectively on the grounds that the planning intention of area shown as ‘Road’ would not be frustrated, and the proposed use was considered compatible with the existing commercial uses on the ground level of the nearby houses. Summary of the previous applications is at **Appendix III**.

## **6. Similar Applications**

There are 12 similar applications for OSA in same area shown as ‘Road’ on the Pak Kong and Sha Kok Mei OZP (**Plan A-1**). Applications No. A/SK-PK/129, 130, 172, 173, 202, 203, 228, 229, 230, 248, 249, 250, which were all were approved by the Committee on a temporary basis for a period of three years on the grounds that the

planning intention of area shown as ‘Road’ would not be frustrated, the proposed use was considered compatible with the existing commercial uses on the ground level of the nearby houses, and no adverse traffic, drainage and environmental impacts on the surrounding areas were anticipated with a small scale of development. Details of the applications are summarised at **Appendix IV** and their locations are shown on **Plans A-1** and **A-2**.

## **7. The Site and Its Surrounding Areas (Plans A-1 to A-4)**

7.1 The Site is:

- (a) located in front of a row of two to three-storey village houses. It is currently used as an OSA of an immediately adjoining restaurant on the ground floor of a three-storey building; and
- (b) accessible via a pedestrian walkway along the Hiram’s Highway to its immediate south.

7.2 The surrounding areas have the following characteristics:

- (a) the existing developments in the vicinity of the Site are predominantly two to three-storey village houses. For the houses fronting Hiram’s Highway and Po Tung Road, the ground floor are mostly occupied by shops and restaurants;
- (b) two public car parks are located about 60m from the Site. One is to its northeast, which is accessible via Yau Ma Po Street branching off from Hiram’s Highway; another one, zoned Open Space (“O”), is to its east, which is accessible via Po Tung Road; and
- (c) Sai Kung town centre area, which comprises composite buildings with commercial activities on the lower floors, is about 100m to the east of the Site.

## **8. Planning Intention**

The Site falls within an area shown as ‘Road’ and forms part of land reservation for the future widening and junction improvement of Hiram’s Highway.

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

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

### **Land Administration**

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

- (a) no comment on the application from land administration point of view; and
- (b) the Site is a piece of government land adjoining Lot 780 RP in D.D. 215. According to his record, a short term tenancy (STT) (No. SX 4957) was granted to the applicant for a term of three years commencing from 29 April 2017 and thereafter quarterly.

### **Traffic**

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

- (a) no in-principle objection to the application;
- (b) the restaurant furniture and temporary structures in the OSA shall not obstruct traffic aids and sightlines of vehicles and pedestrians. The applicant shall modify the layout of the furniture and temporary structures when required by the Government; and
- (c) the OSA should be controlled that roadworks and traffic diversions as well as traffic management schemes for special occasions would not be affected.

9.1.3 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- (a) the Hiram's Highway Improvement Project (HHIP) Stage 2 has been gazetted on 3.1.2020 and the Site falls within the site boundary of HHIP Stage 2 project; and
- (b) on the understanding that the planning permission of such renewal application will expire before the anticipated commencement date of HHIP Stage 2 project, he has no comment on the application.

### **Drainage**

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

no in-principle objection to the application from a drainage maintenance viewpoint provided that necessary stormwater drainage facilities would be provided in association with the proposed temporary eating place not causing adverse drainage impact to the areas in the vicinity.

### **Food Processing Licence**

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

- (a) no comment to the application;
- (b) the restaurant has been granted with a General Restaurant Licence with approved OSA. The proposed area specified in the application tallies with the approved layout plan in her record;
- (c) whenever the restaurant licensees who wish to include an OSA into their licensed premises, they are required to submit application to FEHD by filling in the application form together with 8 copies of proposed layout cum OSA plan and 5 copies of 1:1000 location map for approval. If the application of OSA is acceptable for further processing, FEHD will refer it to the relevant departments including Buildings Department, Transport Department, Fire Services Department, Planning Department, Home Affairs Department and Lands Department for clearance; and
- (d) please make reference to hyperlink from FEHD website below for the guideline on application for OSA especially the main licensing requirements listed at Appendix G and H

[http://www.fehd.hksarg/english/howto/series/forms/new/OSA\\_Guide.pdf](http://www.fehd.hksarg/english/howto/series/forms/new/OSA_Guide.pdf).

### **Building Matters**

9.1.6 Comments of the Chief Building Surveyor/New Territories East 2 and Rail, Buildings Department (CBS/NTE2 & Rail, BD)

- (a) no in-principle objection under the Buildings Ordinance (BO);
- (b) all unauthorised building works/ structures should be removed;
- (c) before any new building works are carried out on land held under STT, prior approval and consent from the Building Authority (BA) should be obtained, otherwise they are unauthorised building works (UBW). AP must be appointed to coordinate all new building works in accordance with the BO;
- (d) the granting of planning approval should not be construed as an acceptance of the unauthorised structures on site under the BO. Enforcement action maybe taken to effect the removal of all unauthorised works in the future; and
- (e) the proposed use is subject to the issue of a licence, so the OSA

should comply with the building safety and other relevant requirements as may be imposed by the relevant licensing authority.

### **Fire Safety**

#### 9.1.7 Comments of the Director of Fire Services (D of FS):

- (a) no in-principle objection to the application subject to fire service installations (FSIs) being provided to the satisfaction the D of FS;
- (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to Fire Services Department for approval. In addition, the applicant should also be advised on the following points:
  - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
  - (ii) the location of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123) or application for licence for the subject eating place is required, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans or referral from relevant licensing authority respectively.

### **Water Supplies**

#### 9.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD):

- (a) no objection to the application; and
- (b) the Site falls within the consultation zone of Pak Kong Water Treatment Works, which is a Potentially Hazardous Installation.

#### 9.2 The following government departments have no comment on the application:

- (a) Director of Environmental Protection;
- (b) District Officer/Sai Kung, Home Affairs Department; and
- (c) Chief Engineer (Works), Home Affairs Department.

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

On 25.2.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 17.3.2020, two

public comments were received from individuals (**Appendix V**) objecting to the application as the Site would obstruct the villagers' access to Sha Kok Mei Village and that the business operates outdoors.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for renewal of planning approval under previous application No. A/SK-PK/236 to use the Site as a temporary eating place (OSA only). The Site falls within an area shown as 'Road' forming part of the land reservation for the future widening and junction improvement of Hiram's Highway. Although the proposed use is not in line with the planning intention of the area shown as 'Road', given the temporary nature of the OSA, the long-term planning intention of the area shown as 'Road' would not be frustrated. CHE/NTE, HyD advises that the Site falls within the site boundary of HHIP Stage 2 project. He has no comment on the renewal application on the understanding that the planning permission of such renewal application will expire before the anticipated commencement date of HHIP Stage 2 project. The operation of the OSA (under STT) within the Site can be terminated upon demand by the Government to ensure that the future widening and junction improvement of Hiram's Highway would not be adversely affected by the proposed temporary use.
- 11.2 The Site is located at the fringe of Sai Kung Town. There are several retail shops and restaurants on the ground floors of the nearby village houses providing convenient retail and catering services for the neighbourhood. There are similar approved applications within the same 'Road' area. The OSA was previously approved by the Committee in 2002, 2006, 2010, 2014 and 2017, and has been operating as part of the existing restaurant on the ground floor of the adjoining house. It is compatible with the existing commercial uses on the ground level of the nearby houses.
- 11.3 The Site does not encroach onto the existing pedestrian pavement of Hiram's Highway. Given the small-scale of the proposal (total area of about 21m<sup>2</sup>), the OSA would unlikely cause nuisance, adverse traffic, drainage and environmental impacts on the surrounding areas. Relevant government departments consulted have no comment on/ in-principle objection to the application.
- 11.4 The current application is the same as the previously approved scheme. Except the gazettal of HHIP Stage 2 project on 3.1.2020, there has been no major change in the planning circumstances in the area since the previous approval was granted. The application is generally in line with TPB PG-No. 34C in that since the last planning approval, there has been no major change in planning circumstances; no government departments consulted have adverse comments on/objection to the application; and the three-year approval period sought is not longer than the original validity period of the previous approval and is reasonable.
- 11.5 Regarding the public comments objecting to the application, the assessment in paragraphs 11.1 to 11.4 above are relevant.

## 12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers that the temporary use could be tolerated for a further period of three years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the planning permission shall be valid on a temporary basis for a further period of three years from 26.5.2020 until 25.5.2023. The following approval conditions and advisory clauses are suggested for Members' reference:

### Approval Conditions

- (a) the provision of fire service installations within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 26.11.2020; and
- (b) if the above planning condition (a) is not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

### Advisory Clauses

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

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' consideration:

the OSA is not in line with the planning intention of the Site which is shown as 'Road' for the future widening and junction improvement of Hiram's Highway.

## 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 on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

## 14. Attachments

### **Appendix I**

Application form dated 18.2.2020



<b>Appendix II</b>	Relevant extract of Town Planning Board Guidelines No. 34C on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development
<b>Appendix III</b>	Summary of previous applications
<b>Appendix IV</b>	Summary of similar applications
<b>Appendix V</b>	Public comments received
<b>Appendix VI</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan submitted by the applicant
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4a &amp;A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
MAY 2020**