

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-HH/78

- Applicant** : The Woodland Pre-Schools Limited represented by Wilson Lee & Associates Ltd.
- Premises** : Shop D & Yard, G/F, Marina Cove Shopping Centre, Sai Kung
- Floor Area** : About 697m²
- 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/8
- Zoning** : “Other Specified Uses” annotated “Residential cum Marina Development”
- Application** : Renewal of Planning Approval for Temporary School (Kindergarten) for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to use the application premises (the Premises) for a temporary school (kindergarten) for a period of 3 years. 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/8 (**Plan A-1**). According to the Notes of the OZP, temporary school (kindergarten) for a period not exceeding three years requires planning permission from the Town Planning Board (the Board), notwithstanding that ‘School’ is not a Column 1 or 2 use under the zone. The kindergarten has a total floor area of about 697m², including 597m² for five classrooms, activity area, office and play area as well as 100m² for an outdoor play area (**Drawing A-1**).
- 1.2 The Premises are the subject of five previous applications (No. A/SK-HH/45, A/SK-HH/54, A/SK-HH/69, A/SK-HH/71 and A/SK-HH/73) for the same temporary use submitted by the same 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, 23.12.2016 and 26.1.2018 respectively. Approval

conditions regarding the implementation of traffic arrangements and maintenance of fire services installations (FSIs) have been complied with. The planning permission for the latest application No. A/SK-HH/73 will lapse on 26.1.2021.

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

- | | |
|--------------------------------------|----------------------|
| (a) Application Form dated 9.11.2020 | (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 42 years, over 62,000 students received quality education from the applicant's company;
- (b) in the school year 2020-2021, 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 five classrooms, two activity rooms, a pantry, toilet facilities, a sick bay, administrative office, indoor play areas and outdoor play areas;
- (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-seater and two 13-seater 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 students. 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 is being confirmed by the landlord;
- (e) the traffic signs, as per the instruction of Transport Department, are well maintained on site; and
- (f) all approval conditions pertaining to the planning approval have been complied with. The applicant will continue to implement and maintain traffic arrangements and the installed FSIs at the Premises in efficient working order during the approval period.

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. 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) is relevant to the application. The relevant assessment criteria are attached at **Appendix II**.

5. Previous Applications

5.1 The Premises is the subject of eight previous applications for temporary child care centre and/or temporary kindergarten (Applications No. A/SK-HH/22, 43, 44, 45, 54, 69, 71 and 73), five of which were for the same temporary use submitted by the same applicant. Details of the applications are summarised in **Appendix III** and the boundaries of the application premises are shown on **Plan A-2**.

5.2 Applications No. A/SK-HH/22, 45, 54, 69, 71 and 73 were approved with conditions each for a period of three years by the Committee between 27.10.2000 and 26.1.2018 mainly on the considerations that the proposals were not incompatible with the surrounding uses; the proposals would not frustrate the long-term development of the area; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, the planning permissions under applications No. A/SK-HH/69 and A/SK-HH/71 were revoked on 19.3.2016 and 24.6.2017 respectively due to non-compliance with approval conditions pertaining to fire services installations (FSIs).

5.3 Application No. A/SK-HH/43 for a temporary kindergarten occupying the southern half portion of the Premises for a period of three years was approved with conditions by the Committee on 27.2.2009. The planning approval expired on 27.2.2012.

5.4 Application No. A/SK-HH/44 for a temporary kindergarten at the Premises for a period of three years was rejected by the Committee on 10.7.2009 on the grounds that 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 the proposed development might aggravate the existing traffic conditions of the area, and might have adverse traffic impact on Hiram's Highway.

6. Similar Applications

There are six similar applications (Applications No. A/SK-HH/26, 41, 46, 58, 59 and 77) within the "OU(Residential cum Marina Development)" zone (**Plan A-1**). All these applications are for development of learning/training/education centre or 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 summarised at **Appendix IV** and their locations are shown on **Plans A-1** and **A-2**.

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

7.1 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 an at-grade footbridge to the other commercial blocks of the Marina Cove Shopping Centre.

7.2 The surrounding areas have the following characteristics:

- (a) there are also tutorial schools within Marina Cove Shopping Centre (one is covered by a valid planning permission, application No. A/SK-HH/77). Other shops in the shopping centre comprise restaurants, real estate agency, convenience store and a supermarket; and
- (b) surrounding Marina Cove Shopping Centre are clubhouse buildings and low-density residential houses in the Marina Cove development.

8. 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 (under the lease).

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) 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 and the

Extension thereto (“the Lot”). 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 1,858m² nor more than 5,574m², with shops including a supermarket, restaurant, and workshops for boat repairing and associated facilities.

Traffic

9.1.2 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.

Drainage

9.1.3 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 shall 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

9.1.4 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 unauthorised works in future.

Fire Safety

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

- (a) no in-principle objection to the application subject to FSIs being provided to the satisfaction of 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 FSIs to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the proposed structure is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

9.2 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.

10. Public Comments Received During Statutory Publication Period

On 17.11.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 8.12.2020, no public comments were received.

11. Planning Considerations and Assessments

11.1 The application is for renewal of planning approval under previous application No. A/SK-HH/73 for temporary school (kindergarten) for a further period of three years. The Premises fall within an area zoned “OU(Residential cum Marina Development)” on the Hebe Haven OZP which is for a mixed development of residential, marina and limited commercial retail uses. It covers the existing Marina Cove development, which has been fully developed with low-density housing including commercial and marina facilities in accordance with the approved Master Layout Plan (under the lease). Approval of the kindergarten within the existing commercial block of Marina Cove development on a temporary basis would not frustrate the planning intention of the “OU(Residential cum Marina Development)” zone. The permitted uses under the “OU(Residential cum Marina Development)” zone could be reviewed in future amendment to the OZP as appropriate.

- 11.2 The temporary school (kindergarten) at the Premises was first approved with conditions (Application No. A/SK-HH/45) by the Committee on 18.9.2009. Subsequently, applications for the same temporary use and renewals of planning permission (Applications No. A/SK-HH/54, A/SK-HH/69, A/SK-HH/71 and A/SK-HH/73) were approved with conditions by the Committee on 7.9.2012, 18.9.2015 and 23.12.2016 and 26.1.2018 respectively. Since the approval of the previous applications, there has been no material change in planning circumstances. The applicant has complied with all the previous approval conditions regarding the implementation of traffic arrangements and maintenance of FSIs.
- 11.3 The kindergarten is located within a free-standing single storey commercial block within the 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 the Marina Cove development. Relevant government departments consulted have no objection to the application.
- 11.4 The applicant has implemented the recommendations in the traffic report (**Drawing A-2**) as required under the planning condition on traffic aspect in the previous planning permission. C for T has no objection to the current application and suggests to impose the same planning condition requiring the applicant to continue implementing the traffic arrangements should the application be approved.
- 11.5 No public comments have been received during the statutory publication period.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department considers that the temporary kindergarten could be tolerated for a period of three years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a further period of three years, and be renewed from 27.1.2021 until 26.1.2024. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the provision of fire service installations within **six** months from the commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 27.7.2021;
- (b) 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;
- (c) 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; and

- (d) if the above planning condition (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 V**.

- 12.3 There is no strong reason to reject 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 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 reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form dated 9.11.2020
Appendix Ia	Planning Statement submitted by the applicant
Appendix II	Relevant extract of Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use for Development (TPB PG-No. 34C)
Appendix III	Previous applications
Appendix IV	Similar applications
Appendix V	Advisory clauses
Drawing A-1	Layout plan submitted by the applicant
Drawing A-2	Traffic arrangement plan submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos