

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-PK/259

- Applicant:** Mr. CHOI Ming Wa represented by Ber Lin Consultancy Services Ltd.
- Premises:** G/F, 11A Po Tung Road, Lot 1813 (Part) in D.D. 221, Sai Kung, New Territories
- Floor Area:** About 40.82m²
- Land Status:** Private Lot - New Grant No. 6321 restricts the lot for non-industrial purposes
- Plan:** Approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No. S/SK-PK/11
- Zoning:** Area shown as 'Road'
- Application:** Temporary Eating Place (Restaurant) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the ground floor of an existing three-storey village house (the Premises) for temporary eating place (restaurant) for a period of three years. The Premises (**Plans A-1 and A-2**) fall within an area shown as 'Road' on the approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No. S/SK-PK/11. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP.
- 1.2 The Premises are the subject of a previously approved application No. A/SK-PK/194 submitted by another applicant but for the same temporary use. The application was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 16.3.2012; however, that planning permission lapsed on 17.3.2015.
- 1.3 In support of the application, the applicant has submitted an application form with plans and drawings dated 30.6.2020 (**Appendix I**).

2. Justification from the Applicant

The justification put forth by the applicant in support of the application are detailed in part 7 of the application form at **Appendix I**. They can be summarised as follows:

There was a restaurant at the application premises and the applicant would like to continue to provide food and beverage services to the local residents.

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. 31) by obtaining consent from the land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Application (Plans A-1 and A-2)

The Premises are the subject of a previous application No. A/SK-PK/194 for the same temporary use. The application was approved with conditions by the Committee on 16.3.2012, mainly on the grounds that the planning intention of the area shown as ‘Road’ would not be frustrated; the proposed use was considered not incompatible with the existing commercial uses on the ground level of the nearby village houses; and no adverse impacts on the surrounding areas were anticipated. The permission lapsed on 17.3.2015. Details of the application is summarized in **Appendix II**.

5. Similar Applications

5.1 There are 10 similar applications (No. A/SK-PK/174, 193, 200, 205, 226, 230, 237, 238, 245 and 250) for temporary eating place for a period of 3 years in area shown as ‘Road’ on the OZP.

5.2 Nine of the applications (No. A/SK-PK/174, 193, 200, 205, 226, 230, 238, 245 and 250) were approved by the Committee mainly on the grounds that the planning intention of area shown as ‘Road’ would not be jeopardised; compatible with existing commercial uses on the ground level of nearby houses; and no adverse impacts on the surrounding areas were anticipated.

5.3 Application No. A/SK-PK/237 for temporary shop and services and eating place within a proposed 2-storey building for a period of 3 years was rejected by the Committee on 12.5.2017 on the grounds that the temporary nature of the application could not be established; adverse landscape impact on the surrounding areas was anticipated; and the proposed filling of the existing berm would have adverse impact on public safety.

5.4 Details of the applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2**.

6. The Premises and The Surrounding Areas (Plans A-1 to A-4b)

6.1 The Premises are:

- (a) located on the ground floor of a 3-storey village house and is currently vacant and under renovation;
- (b) the upper two floors are for residential use; and
- (c) accessible via footpath abutting Po Tung Road.

6.2 The surrounding areas have the following characteristics:

- (a) the existing developments in the vicinity of the Premises are predominantly 2 to 3-storey village houses. For the houses fronting Po Tung Road, the ground floor are mostly occupied by shops and restaurants, while the upper floors are for domestic uses; and
- (b) two open metered car parks are located about 50 metres northwest and 20 metres southeast of the Premises accessible via Hiram's Highway.

7. Planning Intention

The Premises fall within an area shown as 'Road' on the approved Pak Kong and Sha Kok Mei OZP No. S/SK-PK/11, and form part of land area reserved for future widening and junction improvement of Hiram's Highway.

8. Comments from Relevant Government Departments

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

Land Administration

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

- (a) the Premises fall within Lot 1813 in D.D. 221 ("the Lot"). The Lot has a site area of 261.1m² and is held under New Grant No. 6321 dated 28.12.1979. Pursuant to SC No. (10) of the said New Grant, the Lot or building erected thereon shall not be used for any purpose other than non-industrial purposes. The proposed restaurant use is considered not in breach of the lease condition; and
- (b) no objection to the application from the lease point of view.

Traffic

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

- (a) no in-principle objection to the application; and
- (b) no restaurant furniture and temporary structures shall be placed on the adjacent footpath to obstruct pedestrian flow; obstruct any traffic aids, or affect sightlines of vehicles and pedestrians.

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

- (a) no comment on the application; and
- (b) the Site falls outside of the Hiram's Highway Improvement Project Stage 2.

Environment

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

no objection to the application from chlorine risk perspective.

Drainage

8.1.5 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 and not cause adverse drainage impact to the areas in the vicinity.

Food and Environmental Hygiene

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

- (a) no comment on the application;
- (b) an application for Light Refreshment Restaurant at the Premises has been received on 30.7.2020 and is under processing. The area specified in the licence application is generally in line with the Premises;
- (c) proper licence/permit issued by FEHD is required if there is any food business/catering service/activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public. The operation of any eating place should be under a food licence issued by the

FEHD. If the operator intends to operate a restaurant business in the territory, a restaurant licence should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132). The application for food business licences under Cap. 132, if acceptable by FEHD, will be referred to relevant government departments for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements; and

- (d) the licence application has been referred to relevant government departments for comment and the reply is still pending. No food business shall be conducted on the Proposed Temporary Eating Place (Restaurant) unless a valid licence has been obtained from FEHD.

Fire Safety

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

- (a) no in-principle objection to the application subject to fire service installations being provided to the satisfaction of the D of FS; and
- (b) detailed fire safety requirements will be formulated upon receipt of formal submission from general building plans or referral from licensing authority.

Water Supply

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

- (a) no objection to the application; and
- (b) for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

Building Matters

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

- (a) no comment on the application;
- (b) there is no record of approval by the Building Authority (BA) in

respect of the existing buildings at the Premises and his department is not in a position to offer comments on the suitability of the premises for the proposed use under the application;

- (c) as the existing building is NTEH under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121 or the previous Cap. 322), DLO/SK, LandsD should be in a better position to comment on the application; and
- (d) the applicant should be reminded that the Premises intended to be used for temporary eating place (restaurant) are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.

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

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

9. Public Comments Received During Statutory Publication Period

On 28.8.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 18.9.2020, no public comment was received.

10. Planning Considerations and Assessments

10.1 The application is for temporary eating place (restaurant) at the Premises for a period of 3 years. The Premises fall within an area shown as 'Road' on the OZP which is intended to reserve area 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 temporary eating place, the long-term planning intention of the area shown as 'Road' would not be frustrated. It is noted that the Hiram's Highway Improvement Stage 2 project were gazetted on 3.1.2020 and 10.1.2020. As advised by CHE/NTE, HyD, the Premises fall outside the project area. C for T and CHE/NTE, HyD have no in-principle objection to/no comment on the application.

10.2 The proposed temporary eating place is located at the fringe of Sai Kung Town. It is considered not incompatible with the surrounding uses which are mainly occupied by village houses with retail shops and restaurants on the ground floors, providing retail and catering services for the neighbourhood. In view of the small scale development and it is accommodated within an existing building, it would unlikely cause nuisance, adverse traffic, drainage and environmental impacts on the surrounding areas. Relevant government departments consulted have no adverse comment on/ objection to the

application.

- 10.3 The Premises are the subject of a previously approved application No. A/SK-PK/194 for the same temporary use which lapsed on 17.3.2015. Except for the gazettal of Hiram's Highway Improvement Project Stage 2 project on 3.1.2020 and 10.1.2020, there has been no major change in the planning circumstances in the area. For the current application, D of FS has no objection to the application and advises that approval condition related to fire safety are required.
- 10.4 No public comment has been received on the application.

11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10, the Planning Department considers that the temporary eating place (restaurant) could be tolerated for a period of 3 years.
- 11.2 Should the Committee decide to approve the application, it is suggested that the planning permission shall be valid on a temporary basis for a period of 3 years until 9.10.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the provision of fire service installations within 6 months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 9.4.2021;
- (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 IV**.

- 11.3 There is no strong reason to recommend rejection of 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 reasons for rejection should be given to the applicant.

13. Attachments

Appendix I	Application Form received on 18.8.2020
Appendix II	Summary of Previous Application
Appendix III	Similar Applications
Appendix IV	Advisory Clauses
Drawing A-1	Location Plan submitted by the applicant
Drawing A-2	Layout Plan submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A4-b	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2020**