

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/ST/979

<u>Applicant</u>	:	Sha Tin Rural Committee
<u>Site</u>	:	No. 248 Pai Tau Village, Sha Tin, New Territories
<u>Site Area</u>	:	392.892m ² (including 338m ² of Government Land)
<u>Lease</u>	:	(a) Lot No. 144 in D.D. 183 (about 14% of the Site) (i) No offensive trade clause (ii) No conversion of agricultural ground into use for building purposes without licence (iii) No erection or construction of any building or structure without obtaining approval (b) Government Land Licence No. 30517 for “Sha Tin Rural Committee Office together with such ancillary uses as may be permitted by the Director of Lands” (about 86% of the Site)
<u>Plan</u>	:	Approved Sha Tin Outline Zoning Plan (OZP) No. S/ST/34
<u>Zoning</u>	:	“Village Type Development” (“V”)
<u>Application</u>	:	Proposed Eating Place

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed ‘Eating Place’ use (**Plans A-1 and A-2**). The Site falls within an area zoned “V” on the approved Sha Tin OZP No. S/ST/34. According to the Notes of the OZP, ‘Eating Place’ other than on the ground floor of a New Territories Exempted House (NTEH) is a Column 2 use within “V” zone requiring planning permission from the Town Planning Board (the Board).
- 1.2 The Site is currently occupied by a vacant two-storey non-NTEH building. It was previously used as the office of Sha Tin Rural Committee (STRC) before the STRC was relocated to another site in October 2016. The applicant proposes to convert the existing building into an eating place with a total floor area of 293.994m², which comprises dining area, kitchen, ancillary office, store room and water closets. Besides, outdoor seating is proposed in the hard paved areas located to the south and east of the existing building. While there will be alteration in the internal layout, there will not be any demolition or addition of building under the proposal. There will be a total of 80 seats (including outdoor

seats) and the opening hour of the proposed restaurant will be between 11 am and 11 pm daily. The proposed restaurant will operate as a social enterprise restaurant and its funding application has been approved in-principle by the Home Affairs Department (HAD) under the “Enhancing Self-Reliance Through District Partnership (ESR) Programme” (“「伙伴倡自強」計劃”). The floor and elevation plans of the proposed development submitted by the applicant is shown in **Drawings A-1 to A-4**.

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

- (a) the application form with attachment on 15.11.2019 **(Appendix I)**
- (b) further information (FI) received on 23.12.2019 **(Appendix Ia)**
providing responses to departmental and public
comments with a sewerage impact assessment (SIA) #
- (c) FI received on 12.2.2020 providing responses to **(Appendix Ib)**
departmental comments ^
- (d) FI received on 3.6.2020 and 12.6.2020 providing **(Appendix Ic)**
responses to departmental comments ^

^ accepted and exempted from publication and recounting requirements

accepted but not exempted from publication and recounting requirements

1.4 On 26.5.2020, the Rural and New Town Committee (the Committee) agreed to defer a decision as requested by the applicant. After the deferral, the applicant submitted further information on 3.6.2020 and 12.6.2020. In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 24.7.2020 for consideration of the application has been rescheduled, and the Board has agreed to defer consideration of the application and 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 and FI at **Appendices I to Ic**. They can be summarized as follows:

- (a) the proposal does not involve changes in site coverage, gross floor area, building elevations, colour tone and building height of the existing building and will not cause any adverse visual impacts;
- (b) there is planned public sewerage system near the Site under Drainage Services Department (DSD) Contract No. DC/2013/01. A SIA is submitted to demonstrate that the proposal will have negligible sewerage impact;
- (c) the proposal is located adjacent to an existing elevator connecting to MTR Sha Tin Station and is unlikely to cause adverse traffic impact;
- (d) the proposal will provide social benefits by revitalising the existing vacant building into a social enterprise restaurant to serve the local community and

creating employment opportunities and on-the-job training, especially for the socially disadvantaged groups; and

- (e) the proposed social enterprise is not profit-making and HAD will monitor the social enterprise's account to ensure that it will operate on a non-profit-making basis during the funding and monitoring periods (6 years in total) under the ESR Programme.

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 obtaining consent of the current land owner. Detailed information would be deposited at the meeting for Members' inspection. For the adjoining government land, the "owners' consent/ notification" requirements as set out in the TPB PG-No. 31A are not applicable.

4. Background

- 4.1 The Site was covered by the first statutory plan of Sha Tin since 1961 and has been zoned "V" on the Sha Tin OZP since 1978. According to Planning Department's record, the existing structure erected on the Site came into existence before 1957. Subsequent to the completion of the new office building of the STRC at No. 13 Pai Tau Street, Sha Tin, the office of the STRC has been relocated to the new office in October 2016 and the Site has been vacated since then. According to the Antiquities and Monuments Office, the existing building at the Site is neither a graded/proposed to be graded historic building.
- 4.2 The "Enhancing Self-Reliance Through District Partnership (ESR) Programme" has been established under the HAD since 2006 in response to an initiative of the Commission on Poverty to reinforce its work in preventing and alleviating poverty through a district-based approach. It seeks to promote sustainable poverty prevention and alleviation efforts at the district level that help enhance self-reliance, targeting socially disadvantaged groups, by providing seed grants for eligible organizations to set up social enterprises. Instead of providing welfare or short-term relief, the ESR Programme serves as a funding scheme and aims at increasing the skills and capacities of the socially disadvantaged, providing them opportunities to upgrade themselves and enabling them to be effectively integrated into the community.

5. Previous Application

There is no previous application at the Site.

6. Similar Application

There is no similar application within the same “V” zone on the OZP.

7. The Site and its Surrounding Areas (Plans A-1 to A-3)

7.1 The Site is:

- (a) located at the south-eastern and the north-eastern fringe of the existing village clusters of Pai Tau and Tin Liu respectively;
- (b) occupied by a two-storey building which was previously used as the office of the STRC and is currently vacant; and
- (c) accessible via an existing footpath with a width ranging from about 2m to 4m. There is no vehicular access to the Site but there is a pedestrian ramp and elevator connecting the Site to MTR Sha Tin Station;

7.2 The surrounding areas have the following characteristics:

- (a) the surrounding area is predominately occupied by 2 to 3-storey village houses to the north and west, some of which with shop and services or eating place uses on the ground floor; and
- (b) to the further southeast is the Sha Tin Town Centre which is served by the MTR Sha Tin Station. The Site is within 100m from the MTR station and is well connected with the existing pedestrian linkages to the MTR station/town centre, shopping centres, GIC facilities and open space in the area.

8. Planning Intention

The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. 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 NTEH¹. Other commercial, community and recreational uses may be permitted on application to the Board.

¹ Permitted uses include ‘Eating Place’, ‘Library’, ‘School’ and ‘Shop and Services’

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 the District Lands Officer/Shah Tin, Lands Department (DLO/ST, LandsD):

- (a) the subject building straddles on Lot No. 144 in D.D. 183 (“the Lot”) and the land covered by Government Land Licence (“GLL”) No. 30517. The Lot is governed by Block Government Lease subject to (i) no offensive trade clause, (ii) no conversion of agricultural ground into use for building purposes without licence; and (iii) no erection or construction of any building or structure without obtaining approval. The purpose for Licence Area stated in the GLL is for “Shah Tin Rural Committee Office together with such ancillary uses as may be permitted by the Director of Lands”. The site area, floor area, site coverage, plot ratio, etc. of the Site and the existing building under application are subject to verification; and
- (b) the proposal under application as an eating place with office and store is not permitted under lease and GLL. The registered owner of the Lot has applied to his office for Short Term Tenancy (“STT”) and Short Term Waiver (“STW”) for the purpose of a restaurant and other ancillary use to effect the proposed use under application. The STT and STW applications have been circulated for initial departmental comments. If the planning application is approved by the Board, his office will further process the STT and STW applications. Having said that, there is no guarantee that the STT and STW applications will be approved. Such applications will be considered by LandsD acting in the capacity as the Landlord at its sole discretion. In the event any such applications are approved, it would be subject to such terms and conditions (including among others, the payment of rent and waiver fee and administrative fee) as may be imposed by LandsD.

Building Matters

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

it is noted that majority of the subject building rests on Government land and there is no record of approval by the Building Authority for the existing structures.

Traffic

9.1.3 Comments of the Commissioner for Transport (C or T):

she has no in-principle objection on the application from traffic engineering point of view provided that :

- (a) additional vehicular ingress/egress point or parking provision would not be allowed; and
- (b) existing public footpath would not be affected by the proposed eating place.

Fire Safety

9.1.4 Comments of the Director of Fire Services (D of FS)

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

Licensing Matters

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

- (a) the applicant should obtain a suitable food business licence from Food and Environmental Hygiene Department (FEHD) if the said “eating place” is to be opened for use by members of public;
- (b) the operation of the said “eating place” should not cause sanitary nuisance to its surrounding environment;
- (c) other than domestic waste, the management(s), owner(s),

operator(s) of the “eating place” should properly remove and dispose the waste/refuse including waste water generated at their own expense; and

- (d) the activities in the “eating place” and removal of waste/refuse from the “eating place” should not cause any environmental nuisance to the surroundings.

Environment

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

- (a) considering that insurmountable environmental impacts from the proposed use are not anticipated, he has no objection to the application;
- (b) the applicant should observe the environmental requirements listed out in EPD’s General Environmental Guidelines for Alfresco Dining & Outside Seating Accommodation (OSA);

Air Quality

- (c) no insurmountable air quality impact is anticipated;
- (d) all air emissions from the proposed use should not cause air pollution problem, including odour nuisance and should be free from visible fume according to Air Pollution Control Ordinance Cap. 311;
- (e) the restaurant owners and/or the operators should adopt the air pollution abatement measures outlined in “Control of Oily Fume and Cooking Odour from Restaurant and Food Business”;

Noise

- (f) excessive noise emission from eating place (restaurants) of similar scale is generally amendable to the Noise Control Ordinance. Insurmountable noise impact is not anticipated.

Water Quality & Sewerage

- (g) he has no adverse comments on the SIA and the R-to-C (**Appendices Ia to Ic**); and
- (h) an approval condition on the implementation of sewerage connection works identified in the SIA for the proposed development is suggested should the Board decide to approve the application.

Drainage

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

having reviewed the SIA and the R-to-C (**Appendices Ia to Ic**), he has no adverse comment on the application.

Heritage Conservation

- 9.1.8 Comments of the Executive Secretary (Antiquities & Monuments), Antiquities and Monuments Office (ES(A&M), AMO):

the building concerned on the Site is neither a graded/proposed to be graded historic building nor a new item pending heritage assessment. His office therefore has no comment on the application from the heritage conservation perspective.

Other

- 9.1.9 Comments of the Director of Home Affairs (DHA):

- (a) the Site is the suggested location of the social enterprise restaurant project under the funding application for the ESR Programme² (“「伙伴倡自強」計劃”) established under this department;
- (b) according to the business proposal, the project would create 21 job opportunities, of which 10 of them are designated for the underprivileged. The proposed social enterprise restaurant would provide training courses to the underprivileged staff to equip them with the necessary work skills. The Advisory Committee on ESR Programme considered that the project would be able to achieve its social objective in providing employment and training to the underprivileged and the business proposal would be viable and sustainable;
- (c) the funding application for the said social enterprise project was approved in-principle in July 2019 subject to certain conditions such as obtaining confirmation from relevant government departments that the Site could be used for the social enterprise restaurant purpose and acquisition of General Restaurant licence; and
- (d) the applicant has to observe and comply with the funding agreement to be signed between the applicant and this department which governs the use of grant to be provided under the ESR Programme for the applicant to carry out the social enterprise project during the agreement term of six years.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Project Manager (North), Civil Engineering and Development Department

² The ESR Programme was established under the Home Affairs Department in 2006. The Programme provides seed grants to eligible organisations for setting up and scaling up social enterprises to help the socially disadvantaged to become self-reliant via creating job opportunities and/or providing products/services to meet the specific needs of them.

- (d) Head of Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (e) District Officer/Shah Tin, Home Affairs Department.

10. Public Comments Received During Statutory Publication Period

On 22.11.2019 and 27.12.2019, the application and the FI were published for public inspection. During the statutory public inspection periods, 46 comments were received from the members of Sha Tin District Council, indigenous inhabitant representatives (IRRs) and villagers of Pai Tau Village, and Designing Hong Kong objecting to the application (**Appendix II**). Their views are summarized as follows:

- (a) the Site is only served by a narrow footpath, which cannot cope with the traffic generated by the proposed eating place, and will lead to congestion;
- (b) the proposed eating place is anticipated to generate oily fumes and create noise, odour and other environmental impacts to the pedestrian and residents nearby;
- (c) the proposed eating place is anticipated to lead to fire safety, public security and drainage impacts;
- (d) the Site was previously occupied by the STRC. Therefore, the Site should be used as local community uses instead of a profit-making eating place;
- (e) there is a lack of land for the development of village office, and the Site is considered suitable for village office development;
- (f) the subject building is a historic building which should be preserved for cultural tourism;
- (g) there is already sufficient provision of retail shops and eating places in the vicinity of the Site; and
- (h) there is doubt on whether the proposed eating place will be operated as a social enterprise eating place in the long term.

11. Planning Considerations and Assessments

11.1 The application is for a proposed eating place in an existing 2-storey non-NTEH building on the Site zoned “V” on the OZP. The building was previously occupied by the Sha Tin Rural Committee and has been left vacant since October 2016. The proposed eating place will operate as a social enterprise restaurant. While land within the “V” zone is primarily intended for development of Small Houses by indigenous villagers, the proposed eating place to provide commercial uses serving the needs of the villagers is also considered generally in line with the planning intention of the “V” zone.

11.2 The proposed eating place is considered not incompatible with the land uses in the vicinity. The Site is located to the immediate north of MTR Sha Tin Station and is within walking distance from Sha Tin New Town, which renders it suitable for commercial developments to serve the local community. There are

commercial developments nearby including Grand Central Plaza, Citylink Plaza and New Town Plaza. Commercial uses such as retail shops and restaurants are commonly found on the ground floor of the village houses in the Pau Tau Village.

- 11.3 The proposed eating place is not anticipated to cause significant adverse impacts on pedestrian flow, environment, drainage, sewerage and fire safety aspects. C for T advised that additional vehicular access or parking provision would not be allowed and the existing public footpath should not be affected. DEP advised that the applicant should follow and observe relevant environmental guidelines. DFEH advised that a suitable food business licence should be obtained and no nuisance should be caused to the surrounding environment. Other Government departments including CE/MS, DSD, D of FS and DHA have no objection to/no comment on the application. The proposed eating place will be subject to control by the licensing authority.
- 11.4 Regarding the public comments objecting to the application in relation to the adverse environmental hygiene, traffic, odour and drainage impacts, and whether the proposed eating place will be operated as a social enterprise in the long term, the planning assessment and comments of Government departments above are relevant. For public comments to use the Site for village office development, it should be noted that the application assessment should be based on the applied use.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 1.9.2024, 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 conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the provision of fire services installations before the operation of the proposed development to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (b) the implementation of the sewerage connections works identified in the SIA before the operation of the proposed development to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory Clauses

the recommended advisory clauses are attached at **Appendix III**.

- 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

Appendix I	Application form received on 15.11.2019
Appendix Ia	FI received on 23.12.2019 providing responses to departmental and public comments with a SIA
Appendix Ib	FI received on 12.2.2020 providing responses to departmental comments
Appendix Ic	FI received on 3.6.2020 and 12.6.2020 providing responses to departmental comments
Appendix II	Public comments
Appendix III	Recommended advisory clauses
Drawings A-1 to A4	Proposed Floor and Elevation Plans
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3a and A-3b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2020**