

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/287

- Applicant** : Mr. Ka Hei HO (何嘉禧)
- Premises** : Shop 16, G/F, Tak Cheung Building, No.1 Hung Shui Kiu Main Street, Yuen Long, New Territories
- Total Floor Area of Premises** : About 27.95m²
- Lease** : (a) Under New Grant No. 2433
(b) Restricted to non-industrial purposes (excluding offensive trade)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Residential (Group B)3” (“R(B)3”)
[Restricted to maximum plot ratio (PR) of 1.26, maximum site coverage of 40% and maximum building height (BH) of 6 storeys over single-storey car park]
- Application** : Shop and Services (Fast Food Shop)

1. The Proposal

- 1.1 The applicant seeks planning permission to operate a fast food shop at the application premises (the Premises). The Premises falls within the “R(B)3” zone on the approved HSK and HT OZP (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Premises is currently being used for the applied use without valid planning permission.
- 1.2 The Premises is located at the ground floor of a 6-storey composite building (Tak Cheung Building) with non-domestic uses at the lowest two floors and residential use at the upper floors. According to the applicant, the proposed fast food shop is to provide take away services and its operation hours are from 12:00 p.m. to 9:00 p.m. daily. Layout plan of the applied use is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with plans received on 8.1.2021 (Appendix I)
- (b) Further information (FI) dated 16.2.2021 in response to (Appendix Ia)

- Transport Department (TD)'s comments
[Exempted from publication and recounting requirements]
- (c) FI dated 18.2.2021 for clarifying the background information
[Exempted from publication and recounting requirements] (Appendix Ib)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendices I to Ib**. They can be summarized as follows:

- (a) The proposed fast food shop is a food factory and take-away shop (for fast food and cakes) which aims to serve the nearby residents.
- (b) No seat will be provided within the shop.

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 from the current owners of the Premises. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Premises is not related to any planning enforcement case.

5. Previous Application

There is no previous application in respect of the Premises.

6. Similar Application

There is no similar application within the same “R(B)3” zone on the OZP¹. However, there is a similar application at another premises of the subject building for temporary shop and services use (No. A/HSK/288) scheduled for the consideration by the Rural and New Town Planning Committee (the Committee) of the Board at this meeting.

¹ The subject “R(B)3” zone was zoned “Residential (Group B)” on the then approved Ping Shan Outline Zoning Plan (OZP). Under the then “R(B)” zone, a total of 6 similar applications were approved for eating place.

7. The Premises and Its Surrounding Areas (Plans A-1 to A-4)

7.1 The Premises is:

- (a) located at G/F of Tak Cheung Building (an existing 6-storey composite building with non-domestic uses at the lowest two floors and residential use at the upper floors); and
- (b) currently used as a fast food shop without valid planning permission.

7.2 The subject building is an existing 6-storey composite building². The current uses of the subject building are summarized below:

Floor	Current Uses
G/F	Fast food shop (the Premises), tutorial school, clinic, estate agencies, bicycle tour agency, logistic service centre, restaurants, shops, laundry, vacant shops, bank (automatic teller machine (ATM)) and residential care home for the elderly.
1/F	Residential care home for the elderly
2/F to 5/F	Flats

7.3 The surrounding areas have the following characteristics (**Plans A-1 and A-2**):

- (a) to the north and northwest are Hung Shui Kiu Temporary Market, a refuse collection point and a sitting out area; to its further north across Hung Pak Road and west across King Yuen Road is a residential development (Parkview Garden);
- (b) to its west is a residential development (Tak Hing Building) with shops and eating places on the G/F; to the northwest is a refuse collection point and to the east across Hung Shui Kiu Main Street are some amenity areas and a drainage channel; and
- (c) to the south is Light Rail; to the further southeast and south across Castle Peak Road - Hung Shui Kiu are some residential dwellings, car service yard, a restaurant and a shop.

8. Planning Intention

The planning intention of the “R(B)” zone is primarily for medium-density residential developments where commercial uses serving the residential neighbourhood may be permitted with or without application to the Board.

² The existing building of the Premises was completed with occupation permit (OP) issued in 1979. According to the OP, the lowest two floors were for non-domestic use, including shops, office and storemrooms.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application received are summarized as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

The Premises is situated within Lot No. 4177 in D.D.124 held under New Grant No. 2433 dated 12.11.1976. Pursuant to the lease conditions, the lot or any part thereof or any building or buildings erected or to be erected thereon shall not be used for any purpose other than non-industrial purposes excluding any trade which is now or may thereafter be declared to be an offensive trade under the Public Health and Urban Services Ordinance or any enactment amending the same or substituted therefore. In this regard, he has no comment on the applied use of fast food shop at the Premises from land administrative point of view.

Building Matters

9.1.2 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) He has no objection in principle under the Buildings Ordinance to the application.
- (b) The applicant should be reminded of the detailed comments at **Appendix III**.

Traffic

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

He has no adverse comment on the application from traffic engineering point of view.

9.1.4 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The access arrangement should be commented by Transport Department (TD).
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Premises to nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Premises and Hung Shui Kiu Main Street.

Drainage

9.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) The Premises is a unit of an existing building where drainage impact is not envisaged.

Fire Safety

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

- (a) He has no objection in principle to the application subject to fire service installations (FSIs) being provided to his satisfaction.
- (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.
- (c) The applicant should be reminded of the detailed comments at **Appendix III**.

Environment

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

There was no environmental complaint pertaining to the Premises received in the past 3 years.

Food Licence

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

- (a) Proper licence / permit issued by his department 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 Food and Environmental Hygiene Department (FEHD).
- (b) The applicant should be reminded of the detailed comments at **Appendix III**.

District Officer's Comments

9.1.9 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

- (a) He has no comment on the application from departmental point of view.
- (b) He has not received any comment from the locals on the application.

9.2 The following Government departments have no comment on the application:

- (a) Chief Engineer/Development (Construction), Water Supplies Department (CE/C, WSD); and
- (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD).

10. Public Comment Received During Statutory Publication Period

On 15.1.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received from an individual objecting to the application on the grounds that commercial activities in the dense residential area would possibly lead to environmental pollution and potential fire hazard affecting villagers' safety and living quality (**Appendix II**).

11. Planning Considerations and Assessments

11.1 The application is for shop and services use (fast food shop) at a premises within the "R(B)3" zone on the OZP (**Plan A-1**). The planning intention of the "R(B)" zone is primarily for medium-density residential developments where commercial uses serving the residential neighbourhood may be permitted with or without application to the Board. The applied fast food shop serving the local area including nearby residents is therefore generally in line with the planning intention of the zone.

11.2 The applied fast food shop is situated on the G/F of an existing 6-storey composite building, for which the lowest two floors are used for non-domestic purposes. The adjacent areas mainly comprise shops, eating places, tutorial school, temporary market and sitting-out area. The applied use is considered not incompatible with the existing uses of the subject building and the surrounding areas.

11.3 The subject fast food shop is small in scale with a floor area of about 27.95m² for take-away service only. Given the small scale of the applied use, it is unlikely that it would cause any significant adverse impacts to the surroundings. In this regard, relevant Government departments including C for T, CE/MN, DSD, DEP and D of FS have no in-principle objection to / adverse comments on the application.

11.4 There is one public comment received during the statutory publication period as summarized in paragraph 10 above. The planning considerations and assessments in the above paragraphs are relevant.

12. Planning Department's Views

12.1 Based on the assessment made in paragraph 11, and having taken into account the public comment mentioned in paragraph 10, the Planning Department has no objection to the application.

12.2 Should the Committee decide to approve the application, no time clause on commencement is proposed as the shop and service use under application is already in operation. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval conditions

- (a) the submission and implementation of a fire service installations proposal 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 **26.8.2021**; and
- (b) if the above condition (a) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

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.

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 8.1.2021
Appendix Ia	FI dated 16.2.2021
Appendix Ib	FI dated 18.2.2021
Appendix II	Public Comment
Appendix III	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan

Plan A-2
Plan A-3
Plan A-4

Site Plan
Aerial Photo
Site Photos

PLANNING DEPARTMENT
FEBRUARY 2021