

**REVIEW OF APPLICATION NO. A/K1/259**  
**UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Renewal of Planning Approval**  
**for Temporary Eating Place (Restaurant) for a period of Three Years**  
**in “Government, Institution or Community” zone**  
**at B/F (Portion) and G/F (Portion), Hong Kong Scout Centre,**  
**8 Austin Road, Tsim Sha Tsui, Kowloon**

**1. Background**

- 1.1 On 29.8.2019, the applicant, the Scout Association of Hong Kong (SAHK) represented by Fotton Surveyors Limited, sought renewal of planning approval for temporary eating place (restaurant) at B/F (Portion) and G/F (Portion) of Hong Kong Scout Centre (HKSC) at 8 Austin Road, Tsim Sha Tsui, Kowloon (the Premises) for a period of three years from 10.12.2019 to 9.12.2022 under section 16 of the Town Planning Ordinance (the Ordinance). The Premises falls within an area zoned “Government, Institution or Community” (“G/IC”) on the approved Tsim Sha Tsui Outline Zoning Plan (OZP) No. S/K1/28 (**Plans R-1 and R-1a**). According to the Notes of the OZP for “G/IC” zone, ‘eating place (not elsewhere specified)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board).
- 1.2 On 18.10.2019, the Metro Planning Committee (MPC) of the Board approved the application on a temporary basis for a period of one year until 9.12.2020 instead of three years sought, and agreed to advise the applicant, inter alia, that the applicant should explore the possibility of accommodating other government, institution or community (GIC) uses at the Premises and no further renewal of approval would be given.
- 1.3 For Members’ reference, the following documents are attached:
- |  |           |
|--|-----------|
| (a) MPC Paper No. A/K1/259                                       | (Annex A) |
| (b) Extract of the Minutes of the MPC meeting held on 18.10.2019 | (Annex B) |
| (c) Secretary of the Board’s letter dated 1.11.2019              | (Annex C) |

**2. Application for Review**

- 2.1 On 21.11.2019, the applicant applied, under section 17(1) of the Ordinance, for a review of the MPC’s decision to approve the application on a temporary basis for a period of one year only instead of three years sought (**Annex D**).
- 2.2 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 14.2.2020 for consideration

of the review application has been rescheduled, and the Board has agreed to adjourn consideration of the application. The review application is now scheduled for consideration by the Board at this meeting.

### 3. **Justifications from the Applicant**

The summary of justifications put forth by the applicant in support of the s.16 application is in paragraph 2 of **Annex A**. To support the review application, the applicant has provided further justifications at **Annex D** which are summarised as follows:

- (a) There were three similar applications (No. A/H7/173, A/K2/185 and A/K5/701) for changing the canteen to permanent 'eating place' within "G/IC" zone previously approved by the Board. The decision of not approving the proposed temporary use at the Premises for three years should therefore be re-considered.
- (b) The Premises was originally used as an ancillary canteen serving the members of the SAHK. Given its convenient location, however, it became difficult to prevent locals in the neighbourhood from patronising the canteen. It is against this background that the application was made to make the canteen service open to the public too. This is strictly speaking a provision of community facility (a kind of GIC use) serving the locals while optimising the utilisation of the 'eating place'.

### 4. **The Section 16 Application**

The Premises and Its Surrounding Areas (Plans R-1, R-1a, R-2 and R-5, and photos on Plan R-3 and R-4)

- 4.1 The situations of the Premises and its surrounding areas at the time of the consideration of the s.16 application by the MPC are described in paragraph 8 of **Annex A**. There has been no material change of the situations since then.
- 4.2 The Premises is:
  - (a) located at part of B/F with an entrance at G/F of the 28-storey HKSC;
  - (b) currently used as a restaurant; and
  - (c) accessible via the entrance at G/F of the HKSC fronting Austin Road (Plans R-3 and R-4), or via the lifts at the G/F lobby of the HKSC.
- 4.3 Based on site inspection in January 2020, the current uses within the HKSC are summarised as follows:

<b>Floor</b>	<b>Current Uses</b>
Basement ( <i>Application Premises</i> at portion of B/F)	Eating place and loading/unloading area
G/F ( <i>Application Premises</i> at portion of G/F)	Reception, lift lobby and staircases to B/F and cross-boundary coach terminus
UG/F	Lounge
1/F to 4/F	Car park

Floor	Current Uses
5/F	Car park and telephone exchange
6/F to 7/F	Telephone exchange
8/F	Scout clubhouse with catering facilities, Scout Centre and offices
9/F to 11/F	Scout Centre and offices
12/F	Mechanical rooms
13/F	Offices and staff canteen
14/F to 25/F	Guest rooms

4.4 The surrounding areas have the following characteristics (**Plan R-5**):

- (a) surrounded by a mix of residential, commercial, educational and recreational development/uses;
- (b) to the east and south is the Kowloon Park and further east is Tsim Sha Tsui Police Station;
- (c) to the further southeast and southwest are the Kowloon Park Swimming Pool and two schools (i.e. Lai Chack Middle School and Canton Road Government Primary School) respectively; and
- (d) to the north and west is a mix of commercial and residential uses including Victoria Towers, Chong Tak Building and TAL Building.

#### Planning Intention

4.5 The “G/IC” zone is intended primarily for the provision of GIC facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments.

4.6 According to the Explanatory Statement of the OZP, the HKSC is to be developed into a multi-purpose building accommodating a multi-storey car park, telephone exchange and cross-boundary bus terminus, and the Boy Scout Association Headquarters with hostels.

#### Previous Application

4.7 The Premises is the subject of a previous application (No. A/K1/255) for temporary eating place (restaurant) submitted by the same applicant. The application was approved with conditions on fire service requirements by the MPC on 9.12.2016 for a period of three years, instead of six years sought, in order to review the possibility of accommodating other GIC uses at the subject premises in the future. The major grounds of approval were that the temporary eating place was not incompatible with the surrounding area and no adverse impact was anticipated. The approval conditions have been complied with.

#### Similar Application

4.8 Details of a similar application (No. A/K1/74) are mentioned in paragraph 7 of **Annex**

A. In gist, this application was for restaurant use in “G/IC” zone in Tsim Sha Tsui OZP (**Plan R-1a**), which was rejected by the MPC on 2.11.2001 on the grounds of not in line with the planning intention of “G/IC” zone and insufficient information to demonstrate that the proposed development would integrate with the Tsim Sha Tsui Promenade Beautification Project. The application was approved upon review on 4.10.2002 mainly on the consideration that interfacing issues with the promenade could be resolved and approval conditions on submission of the design details of proposed restaurant and ancillary facilities, and submission and implementation of landscaping proposal were imposed. The site was subsequently rezoned from “G/IC” to “Open Space” on the OZP. Since then, no similar application has been considered by the MPC in the Tsim Sha Tsui area.

## **5. Town Planning Board Guidelines**

The Town Planning Board Guidelines No. 16 for ‘Application for Development/Redevelopment within “G/IC” zone for uses other than G/IC uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 16) and the Town Planning Board Guidelines No. 34C for ‘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 this application. The relevant assessment criteria are summarised in paragraphs 4.1 and 4.2 of **Annex A** respectively.

## **6. Comments from Relevant Government Bureau/Departments**

- 6.1 Comments on the s.16 application made by relevant government bureau/departments are stated in paragraph 10 of **Annex A**.
- 6.2 For the review application, the following government bureau/departments have been further consulted and they maintain their previous comments on the s.16 application, which are recapitulated as follows:

### **Policy Perspective**

#### **6.2.1 Comments of the Secretary for Home Affairs (SHA):**

Home Affairs Bureau is the policy bureau supporting the private treaty grant for development of the HKSC. He has no in-principle objection to the application subject to no adverse comments from other relevant bureaux/departments.

### **Land Administration**

#### **6.2.2 Comments of the District Lands Officer/Kowloon West, Lands Department (DLO/KW, LandsD):**

- (a) The concerned building falls within KIL 10973 which is held under Conditions of Grant No. 12085 dated 9.1.1990 as varied or modified by a Modification Letter dated 7.4.1995 and a No-objection Letter dated 31.1.1997 (hereafter collectively referred to as ‘the Conditions’). Special Condition (S.C.) No. (6) of the Conditions stipulates that the Grantee of

the lot shall not erect or maintain on the lot any building or buildings other than the building or buildings comprising:

- (i) a headquarters for the SAHK including assembly hall, gymnasium, offices, scout shop, hostel, dormitory, canteen, staff quarters and such other ancillary accommodation and facilities as shall be approved by the Director of Social Welfare (hereafter referred to as 'the Scout Headquarters');
  - (ii) a bus terminus having a gross floor area (GFA) of not less than 2,300m<sup>2</sup>;
  - (iii) a telephone exchange including ancillary offices as shall be approved by the Director of Lands having a GFA of not less than 9,000m<sup>2</sup>; and
  - (iv) a multi-storey vehicle park.
- (b) S.C. No. (8)(a) of the Conditions also stipulates that 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 accommodation for the Scout Headquarters, the Bus Terminus, the Telephone Exchange and the Vehicle Park.
- (c) The temporary eating place (restaurant) does not comply with S.C. Nos. (6)(i) and (8)(a). After the applicant had obtained the Board's permission for its previous planning application (No. A/K1/255), a temporary waiver to permit restaurant use at the Premises was approved by LandsD for a fixed term of three years commencing on 1.3.2015 and thereafter quarterly subject to payment of waiver fee. The temporary use for eating place at the Premises is permitted under the said waiver.
- (d) The Conditions contain no provision for the Government to take over the Premises for other GIC uses.

### **Building Matters**

6.2.3 Comments of the Chief Building Surveyor/Kowloon, Buildings Department (CBS/K, BD):

He has no in-principle objection to the application subject to the conditions and requirements imposed by BD being satisfactorily complied with at the restaurant licence application stage.

### **Traffic**

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

- (a) It is noted that the application is for the renewal of a previous application No. A/K1/255 and no complaint about traffic caused by operation of the subject eating place has been received so far.

- (b) According to the HKPSG, 0.5 to 1 car parking space per 200m<sup>2</sup> GFA of conference and banquet facilities is required. Given that the subject eating place has a GFA of 1,977m<sup>2</sup>, 10 car parking spaces shall be provided to fulfil the high-end requirement.
- (c) He has no comment on the application from the traffic engineering viewpoint.

### **Environment**

#### 6.2.5 Comments of the Director of Environmental Protection (DEP):

- (a) No objection to the application from the environmental perspective.
- (b) Based on the information provided by the applicant, it is noted that the application is not expanding the capacity of the existing restaurant and there will be no change from the last approval with the same operation hours and seating capacity. Sewage will be discharged to the same sewerage system as per current configuration.
- (c) The applicant should ensure compliance with the requirements of relevant pollution control ordinances and guidelines. In particular, the applicant should implement the best practical control measures as set out in the 'Control of Oily Fume and Cooking Odour from Restaurants and Food Business' to minimise the oily fume and cooking odour emission.

### **Fire Safety**

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

He has no in-principle objection to the application provided that the fire service installations and equipment installed thereat are properly maintained.

### **Other Aspects**

#### 6.2.7 Comments of the Director of Social Welfare (DSW):

As there are no natural lighting and natural ventilation in the Premises, it may not be suitable for the provision of elderly and other welfare facilities.

#### 6.2.8 Comments of the Government Property Administrator (GPA):

As per the record in the Government Property Agency, there is no requirement of GIC facilities in the district which are suitable to be accommodated in the Premises.

#### 6.3 The following government departments maintain their previous views of having no objection to or no comment on the application:

- (a) Chief Highway Engineer/Kowloon, Highways Department;
- (b) Director of Leisure and Cultural Services;
- (c) Director of Home Affairs;

- (d) Chief Engineer/Construction, Water Supplies Department;
- (e) Chief Engineer/Mainland South, Drainage Services Department;
- (f) Director of Electrical and Mechanical Services;
- (g) Director of Food and Environmental Hygiene;
- (h) Commissioner of Police; and
- (i) District Officer (Yau Tsim Mong).

## **7. Public Comments on the Review Application Received During Statutory Publication Period**

- 7.1 During the statutory public inspection period of the review application, 11 public comments (including four in standard form) submitted by a Yau Tsim Mong District Council member (Mr Chan Ka Long), Green Sense and individuals were received (**Annex E**). All the commenters object to the review application for the main reasons that it may lead to the loss of GIC sites for the needed facilities, e.g. elderly facilities, and hence defeating the planning intention of “G/IC” zone; restaurant use is not compatible with the surrounding land uses; the restaurant may cause traffic congestion and pedestrian safety concerns in the surrounding area; the applicant has not provided information about the usage of the restaurant by HKSC members; and there are sufficient restaurants within the HKSC to serve its members.
- 7.2 Eight public comments expressing objecting views to or general comments on the application were received at the s.16 application stage, which are set out in paragraph 11 of **Annex A**.

## **8. Planning Considerations and Assessments**

- 8.1 The applicant applied for a review of the MPC’s decision on 18.10.2019 to approve a s.16 application for renewal of planning approval for the temporary eating place (restaurant) at the Premises for a period of one year only instead of three years sought. The Premises falls within an area zoned “G/IC”. At the time of consideration of the s.16 application, the Planning Department had no objection to the application mainly on the consideration that there had been no material change in the planning circumstances and surrounding land uses since the previous approval in 2016; all approval conditions of the previous approval had been complied with; the scale and nature of the applied use remained unchanged; the approval period of three years sought was the same as the previous approval; relevant government departments had confirmed that there was no suitable GIC use to be accommodated at the Premises; the application complied with the relevant TPB Guidelines; and relevant government bureaux/departments had no objection to or no adverse comment on the application.
- 8.2 However, at the MPC meeting on 18.10.2019, Members were generally of the view that the Premises should be used for GIC uses. The renewal of the planning approval for a period of three years was not supported as the applicant had not addressed the MPC’s concern raised upon approving the previous application in 2016 to explore the possibility of accommodating other GIC uses at the Premises. Given the above, the MPC decided to grant a shorter approval period of one year so as to allow time for the applicant to explore suitable GIC uses at the Premises. The MPC also agreed to advise the applicant that no further renewal of approval would be given. There is no material change in the planning circumstances of the case since then.

- 8.3 In the review application, the applicant has not provided any justifications/further information to address the MPC's concern as mentioned in paragraph 8.2 above on the possibility of making better use of the Premises to support the operation of the SAHK or for other GIC uses, but argues that it is difficult to prevent locals in the neighbourhood from patronising the existing canteen given its convenient location, and thus it should be regarded as a kind of GIC use serving the community. It should be noted that while the applicant has claimed in the planning statement of the application that the Premises will serve as an eating place for its members and they will be given priority to enjoy the facilities under a priority booking system, if the locals cannot be prevented from patronising the canteen as argued by the applicant, it would undermine its canteen function. In addition, the Premises is currently used as a restaurant which is commercial in nature, and thus can hardly be regarded as a kind of GIC use.
- 8.4 The applicant also claims in the review application that there were three similar applications (No. A/K2/185, A/K5/701 and A/H7/173) previously approved by the Board. Application No. A/K2/185 was to regularise the use of an existing coffee shop (84m<sup>2</sup> in floor area) at Queen Elizabeth Hospital, which was approved with conditions by MPC in 2008. Application No. A/K5/701 was to convert a staff canteen into a restaurant (about 554m<sup>2</sup> in floor area) in Caritas Medical Centre, which was approved with condition by MPC in 2011. Application No. A/H7/173 was to convert an existing canteen into a restaurant (about 662m<sup>2</sup> in floor area) at Hong Kong Sanatorium & Hospital, which was approved with conditions by MPC in 2017. These applications were approved by MPC mainly on the grounds of small scale operation and land use compatibility. It should be noted that all the above-mentioned applications involve only small-scale restaurant/coffee shop within hospitals to serve mainly the staff and related users (i.e. patients and their visitors). For the subject application, the restaurant (about 1,977m<sup>2</sup> in floor area) is relatively large in scale and will serve not only the Scout members but also the general public who may not be related users of the HKSC.
- 8.5 Regarding the public comments received, the assessments in paragraphs 8.1 to 8.4 above, the departmental comments in paragraph 6 above, and the planning considerations and assessments in paragraphs 12.1 to 12.4 of **Annex A** are relevant.

## 9. Planning Department's Views

- 9.1 Based on the assessment made in paragraph 8 above, having taken into account the public comments mentioned in paragraph 7 and given that there is no change in the planning circumstances since the consideration of the s.16 application by MPC on 18.10.2019, the Planning Department does not support the review application for granting a temporary approval of three years and maintains the MPC's decision of granting a temporary approval of one year until 9.12.2020 for the following reason:

the purpose of approving the application for a shorter period of one year is to encourage the applicant to explore the possibility of accommodating other government, institution or community uses at the application premises. There is no strong planning justification to extend the duration of the temporary approval up to 9.12.2022 for the applied use.



9.2 Alternatively, should the Board decide to approve the application on review, it is suggested that the permission shall be valid on a temporary basis for a period of three years from 10.12.2019 to 9.12.2022. The recommended advisory clauses attached at **Annex F** are also suggested for Members' reference.

**10. Decision Sought**

10.1 The Board is invited to consider the application for a review of the MPC's decision and decide whether to accede to the application.

10.2 Should the Board decide to reject the review application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

10.3 Alternatively, should the Board decide to approve the review 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.

**11. Attachments**

<b>Annex A</b>	MPC Paper No. A/K1/259
<b>Annex B</b>	Extract of the Minutes of the MPC meeting held on 18.10.2019
<b>Annex C</b>	Secretary of the Board's letter dated 1.11.2019
<b>Annex D</b>	Applicant's submission dated 21.11.2019 applying for a review of the MPC's decision
<b>Annex E</b>	Public comments
<b>Annex F</b>	Advisory clauses
<b>Plan R-1</b>	Location plan
<b>Plan R-1a</b>	Location plan showing the similar application
<b>Plan R-2</b>	Site plan
<b>Plans R-3 and R-4</b>	Site photos
<b>Plan R-5</b>	Existing land uses in the surrounding area

**PLANNING DEPARTMENT  
MARCH 2020**

