

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/H17/139

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| <u>Applicant</u> | DML Education (HK) Private Limited |
| <u>Premises</u> | Shops G106A & G107A, G/F, The Repulse Bay, 109 Repulse Bay Road, Repulse Bay |
| <u>Floor Area</u> | 130.9 m ² (about) |
| <u>Lease</u> | Rural Building Lot No. 142 (RBL 142) - 75 years commencing from 27.5.1918 and renewable for a further term of 75 years - restricted to either hotel or private residential use |
| <u>Plan</u> | Approved Shouson Hill & Repulse Bay Outline Zoning Plan (OZP) No. S/H17/13 |
| <u>Zoning</u> | “Residential (Group B)” (“R(B)”) |
| <u>Application</u> | Proposed Social Welfare Facility (Child Care Centre) |

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed child care centre at Shops G106A & G107A (the Premises), G/F, The Repulse Bay Arcade which is zoned “R(B)” on the OZP. According to the Notes of the OZP, the proposed child care centre, which is regarded as ‘Social Welfare Facility’, is a Column 2 use under “R(B)” zone and requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premise is located on the G/F of The Repulse Bay Arcade which is the non-residential portion of The Repulse Bay. The location of the Premises is shown on **Plan A-1**.
- 1.3 According to the applicant, there will be a maximum of 30 students and 9 teachers/staff for the proposed child care centre, which comprises play area, classrooms, milk room, pantry, toilet and storage room. The operating hours of the proposed child care centre will be 8:00 a.m. to 6:00 p.m. from Mondays to Fridays, and no operation on Saturdays and Sundays. Floor plans of the Premises submitted by the applicant are shown in **Drawings A-1** and **A-2**.

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

- (a) Application form and letter received on 17.8.2018 **(Appendix I)**
- (b) Further information dated 17.9.2018 **(Appendix Ia)**
(accepted and exempted from publication and recounting requirement)
- (c) Further information dated 26.9.2018 **(Appendix Ib)**
(accepted and exempted from publication and recounting requirement)

2. Justifications from the Applicant

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

- (a) the proposed child care centre, which is for 30 children under 3 years old, will be licensed and regulated by the Social Welfare Department (SWD);
- (b) being located within an existing shopping arcade, the proposed use would not be incompatible with other commercial uses and bring about significant traffic impact. The Premises was the subject of a tutorial school approved by the Board on 7.4.2017; and
- (c) the proposed child care centre will be served by the existing car parking and loading/unloading facilities within the shopping arcade. The estate manager would undertake full control and management in all aspects to ensure smooth operations of the daily activities within the shopping arcade.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not the “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 to the current landowner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Application

The Premises forms part of the application site of a planning application (No. A/H17/118) for proposed alteration and addition to the existing shopping arcade for eating place, shop and services, school and place of entertainment (cinema) uses, which was approved with conditions by the Board on 26.10.2007 on review. The Premises is also the subject of a previous planning application (No. A/H17/137) for a proposed tutorial school submitted by a different applicant, which was approved with conditions by the Metro Planning Committee (the Committee) of the Board on 7.4.2017. Details of these applications and their locations are at **Appendix II** and **Plan A-2** respectively.

5. Similar Application

There is no similar application for ‘social welfare facilities (child care centre)’ use within the “R(B)” zone on the Shouson Hill and Repulse OZP.

6. The Premises and Its Surrounding Areas (Plans A-1 to A-2 and photos on Plans A-3 to A-5)

6.1 The Premises is:

- (a) located on the G/F of The Repulse Bay Arcade;
- (b) currently vacant; and
- (c) accessible via escalators or staircases within The Repulse Bay Arcade.

6.2 The subject building has the following characteristics:

- (a) an existing shopping arcade which is the non-residential portion of The Repulse Bay; and
- (b) the LG/F of the shopping arcade is used as a carpark and loading/unloading area, while G/F and 1/F are occupied by a supermarket, restaurants, retail shops, etc..

6.3 The surrounding areas have the following characteristics:

- (a) the Repulse Bay area is predominately occupied by high-class residential developments; and
- (b) to the south of the Premises across Beach Road is the Repulse Bay Beach which is a popular tourist destination.

7. Planning Intention

The “R(B)” zone is intended primarily for medium-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

8. Comments from Relevant Government Departments

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

Land Administration

8.1.1 Comments of the District Lands Officer/Hong Kong West and South, Lands Department (DLO/HKW&S of LandsD):

- (a) the proposed child care centre is situated in the shop units of the existing shopping arcade. The proposed conversion would constitute a reduction of commercial gross floor area in the above shopping arcade and hence may contravene other provisions under the lease such as car parking spaces requirements for commercial use; and
- (b) the details of the proposed child care centre have not been checked at this stage; and there is no implication that such conversion proposal is acceptable under lease even if the application is approved by the Board. Details of the proposal will be considered when the applicant submits building plans for approval under lease.

Traffic Aspect

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

no further comment on the application with reference to the justifications provided by the applicant. The applicant is required to strictly comply with the proposed management measures.

8.1.3 Comments of the Commissioner of Police (C of P):

no comment on the application noting that there will be a maximum of 30 children, the operating hours are confined to weekdays, the pick-up and drop-off activities are confined within the existing shopping arcade.

Building Aspect

8.1.4 Comments of the Chief Building Surveyor/Hong Kong West, Buildings Department (CBS/HKW,BD):

- (a) no objection in-principle under the Buildings Ordinance; and
- (b) detailed comments on the layout/design of the proposed child care centre will be provided upon formal application for certificates under the Child Care Services Ordinance (Cap. 243) (CCSO).

8.1.5 Comments of the Chief Architect/Central Management Division 2, Architectural Services Department:

- (a) no comment from visual impact point of view; and

- (b) toilets shall be provided with natural lighting and ventilation complying relevant Building (Planning) Regulations.

Fire Safety Aspect

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

no objection in principle to the application subject to fire service installations and water supplies for firefighting being provided to the satisfaction of the Fire Services Department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans or referral from the licensing authority.

Environmental Aspect

8.1.7 Comments of the Director of Environmental Protection:

- (a) no objection to the application; and
- (b) in view of the small scale and nature of the proposed use, it will unlikely cause major pollution.

Licensing Aspect

8.1.8 Comments of the Director of Social Welfare (DSW):

- (a) no comment on the application;
- (b) all child care centres must be registered in compliance with the requirements under CCSO and the Child Care Services Regulations (cap. 243A) (CCSR). According to the “Procedural Guide for Application for Registration of a Child Care Centre” which is available at SWD’s website, “the prospective operator should ensure that there is no objection from the Planning Department, or planning permission has been obtained from the Board as required, for the operation of a child care centre in the proposed premises”;
- (c) as stipulated in Section 7(1)(b)(ii) of CCSO, application for registration in respect of a child care centre shall be accompanied by any certificate or notice specified in the form, signed by the person specified in the form in relation to that certificate or notice, concerning the suitability of the design and construction of the centre, its structural condition, fire safety in the centre, the safety of gas and electrical installations in the centre and any other matter pertaining to the safety of children attending the centre. As such, other considerations for the registration application include relevant certificates and approval obtained from the concerned government departments or respective professional as follows:

- BD/Housing Department/ArchSD on structural safety;
 - FSD on fire services requirements and fire safety measures; and
 - Respective professionals certification on safety of fixed electrical installation and gas installation, and fresh air and ventilation measurement; and
- (d) besides, approval from SWD on the capacity, time-table on daily activities, dietary scale and menu, and inclusive monthly fee, etc., should also be sought in accordance with the relevant statutory requirements under the CCSR.

District Officer's Views

8.1.9 Comments of the District Officer (Southern), Home Affairs Department:

- (a) no comment on the application; and
- (b) did not receive any comment from the public during the public inspection period.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Chief Engineer/Hong Kong & Islands, Drainage Services Department;
- (c) Chief Highway Engineer/Hong Kong, Highways Department; and
- (d) Director of Electrical and Mechanical Services.

9. Public Comments Received During Statutory Publication Period

On 21.8.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 11.9.2018, no public comment was received.

10. Planning Considerations and Assessments

10.1 The proposed child care centre is located on the G/F of The Repulse Bay Arcade. It is expected that the proposed child care centre will serve the residential neighbourhood in the area. Hence, it is in line with the planning intention of the "R(B)" zone.

10.2 The proposed child care centre is small in scale with a floor area of about 130.9m² accommodating a maximum of 30 children and 9 teachers/staff. It is considered not incompatible with the other commercial uses such as retail shops and restaurants within the shopping arcade. As advised by DSW, the proposed child care centre will be subject to the registration control and monitoring under CCSO and the CCSR. It is unlikely to cause any adverse impact on the surrounding area.

Concerned government departments, including C for T, C of P, CBS/HKW, BD and D of FS, have no objection to or no adverse comment on the application.

10.3 There is no public comment received.

11. Planning Department's Views

11.1 Based on the assessment made in paragraph 10, the Planning Department has no objection to the application.

11.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 5.10.2022, 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 service installations and water supplies for firefighting before the operation of the applied use to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (b) if the above planning condition is not complied with before the operation of the applied use, the approval hereby given should cease to have effect and should on the same date be revoked immediately without further notice.

Advisory clauses

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

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 date when the validity of the permission should expire.

12.3 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.

13. Attachments

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| Appendix I | Application form with attachments received on 17.8.2018 |
| Appendix Ia | Further information dated 17.9.2018 |
| Appendix Ib | Further information dated 26.9.2018 |
| Appendix II | Previous s.16 planning applications |
| Appendix III | Advisory clauses |
| Drawings A-1 to A-2 | Drawings submitted by the applicant |
| Plan A-1 | Location Plan |
| Plan A-2 | Site Plan |
| Plans A-3 to A-5 | Site Photos |

**PLANNING DEPARTMENT
OCTOBER 2018**