

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/H21/152**

<b><u>Applicant</u></b>	: Mr. Kwok Chun Loi
<b><u>Premises</u></b>	: Flats L and M, G/F, Tai Chow House, 121 Quarry Bay Street, Hong Kong
<b><u>Total Floor Area of Premises</u></b>	: 48 m <sup>2</sup>
<b><u>Lease</u></b>	: Quarry Bay Inland Lot (QBIL) No. 8 s.A s.s.1 [shall not be used for offensive trade purpose]
<b><u>Plan</u></b>	: Approved Quarry Bay Outline Zoning Plan (OZP) No. S/H21/28
<b><u>Zoning</u></b>	: “Residential (Group B)” (“R(B)”) [maximum building height (BH) of 135 metres above Principal Datum (mPD) or the height of the existing building, whichever is the greater]
<b><u>Application</u></b>	: Renewal of Planning Approval for Temporary Eating Place (Restaurant) for a Period of Three Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of the planning approval for temporary ‘Eating Place (Restaurant)’ use at Flats L and M, G/F, Tai Chow House, 121 Quarry Bay Street, Quarry Bay (the premises) for a period of three years. The premises fall within an area zoned “R(B)” on the approved Quarry Bay OZP No. S/H21/28 (**Plan A-1**). According to the Notes of the OZP for “R(B)” zone, ‘Eating Place’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The premises is currently being used as a restaurant with a valid planning permission.
- 1.2 The premises is the subject of two previous applications No. A/H21/139 and No. A/H21/146 submitted by the same applicant for the same use which were approved by the Metro Planning Committee (the Committee) on 25.4.2014 and 7.4.2017 respectively on a temporary basis for a period of three years. The permission for the last application No. A/H21/146 is valid until 25.4.2020.

- 1.3 The premises has a total floor area of 48m<sup>2</sup>. The internal layout plan of the restaurant submitted by the applicant is at **Drawing A-1** which is basically the same as in the last approved application.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received with attachment on 24.1.2020 **(Appendix I)**
  - (b) Further Information dated 10.3.2020 providing relevant certificates of Fire Service Installations (FSIs) and responses to public comment **(Appendix Ia)**

## 2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Annex I of **Appendix I** and **Appendix Ia**. Major points are summarized as follows:

- (a) the subject restaurant has been operating at the premises continuously since 1970s. Its operation has been subject to licensing control by relevant departments for the past 30 years. The applicant submitted a planning application to the Board a few years ago to facilitate transfer of the restaurant licence;
- (b) for the “R(B)” zone, other than the planning intention of residential use, commercial uses serving the residential area can be applied;
- (c) approval for commercial use at a unit next to the premises was given by the Board in 2002;
- (d) there are restaurants and different kinds of shops in the adjacent building (i.e. Tai Lung House). The restaurant is not incompatible with the surroundings;
- (e) approval was first given by the Board for a period of 3 years in 2014 and renewal of approval for a period of 3 years was approved by the Board in 2017;
- (f) the layout of the restaurant and the FSIs proposal remain unchanged from the previous application, and the relevant FSIs proposal was implemented and approved by relevant authority; and
- (g) the applicant has complied with relevant ordinances and licensing requirements in treating sewage and oil refuse over the years, and the restaurant is regularly inspected by the Food and Environmental Hygiene Department (FEHD).

### 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 having obtained consent from the owner. Detailed information would be deposited at the meeting for Members’ inspection.

### 4. **Town Planning Board Guidelines**

4.1 According to Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C), the criteria for assessing applications for renewal of planning approval are as follows:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant government departments within the specified time limits;
- (d) whether the approval period sought is reasonable; and
- (e) any other relevant considerations.

4.2 Under normal circumstances, the approval period for renewal should not be longer than the original validity period of the temporary approval.

### 5. **Previous Applications**

5.1 The premises is the subject of two previous planning applications (Application Nos. A/H21/139 and A/H21/146) submitted by the same applicant for ‘Eating Place (Restaurant)’ use (**Plan A-1**).

5.2 Application No. A/H21/139 was submitted to facilitate transfer of restaurant licence. On 25.4.2014, the application was approved with conditions by the Committee on a temporary basis for a period of three years up to 25.4.2017 to monitor the operation of the restaurant in view of the hygiene concern raised by the public comments and that the applicant was a new operator. The planning permission was subject to conditions including the submission and implementation of fire service installation, and restriction on the use of the door leading to the internal corridor on G/F of Tai Chow House by restaurant staff only (except for emergency) (**Drawing A-1 and Plan A-4**). Subsequently, the Board rejected the applicant’s review application on the

validity period of the planning permission on 15.8.2014 on the grounds that the temporary planning permission was to allow a cautious approach to enable the Board to monitor the operation of the restaurant, in particular the hygiene aspect and the applicant had not provided strong planning justification for a departure from the Committee's decision.

- 5.3 Application No. A/H21/146 for renewal of the planning approval was approved with conditions by the Committee on 7.4.2017. The planning permission is basically subject to the same conditions as that in Application No. A/H21/139.

## **6. Similar Application**

There is no similar application for 'Eating Place' use within "R(B)" zone on the Quarry Bay OZP.

## **7. The Premises and Its Surrounding Areas (Plans A-1 to A-5)**

- 7.1 The premises is:

- (a) comprising of two units on G/F of Tai Chow House which are accessible from Quarry Bay Street; and
- (b) occupied by a restaurant with frontage and entrance facing Quarry Bay Street.

- 7.2 Tai Chow House is an existing 10-storey residential building. The G/F is currently occupied by a restaurant (the premises), a piano shop\*, a bicycle shop#, an office\* and 3 domestic units on the western side fronting Quarry Bay Street (**Plan A-5**) and domestic units on the eastern side while 1/F to 9/F are domestic units.

- 7.3 The surrounding area of the premises has the following characteristics:

- (a) the northern portion of the "R(B)" zone comprises of 4 residential buildings, namely, Tai Chow House (where the premises is located), Tai Sing House, Tai Hing House and Tai Lung House;
- (b) some commercial uses\* are found on G/F of Tai Lung House facing Quarry Bay Street, while both Tai Sing House and Tai Hing House are residential buildings with no retail uses on G/F; and
- (c) the southern portion of the subject "R(B)" zone is occupied by the residential development of Mount Parker Lodge.

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\* No record of planning approvals granted for such uses.

# An Application No. A/H21/109 for school use (tutorial centre) at Flat O on G/F of Tai Chow House to the north of the premises was approved by the Committee on 8.2.2002 mainly on the consideration that the development was not incompatible with the surrounding retail uses. The tutorial centre had ceased operation, and the concerned unit is currently used as a bicycle shop without a valid planning permission.

## **8. Planning Intention**

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

## **9. Comments from Relevant Government Departments**

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

### **Land Administration**

9.1.1 Comments of the District Lands Officer/Hong Kong East, Lands Department (LandsD):

- (a) no comment on the application from land administrative viewpoint; and
- (b) Tai Chow House is erected on QBIL No. 8 s.A s.s.1. The lease governing the application site has no specified user restriction but subject to an offensive trade clause. Operation of eating place or restaurant at the premises is restricted under the offensive trade clause. An offensive trades licence dated 31.1.2018 was issued to permit 5 specified trades to be carried out on the premises.

### **Building Aspect**

9.1.2 Comments of the Chief Building Surveyor/Hong Kong East and Heritage Unit, Buildings Department (BD):

- (a) no objection to the application;
- (b) Building (Alterations and Additions) Plan for building works (if any) in connection with the proposed change in use ‘Eating Place (Restaurant)’ should be submitted for approval under the Buildings Ordinance (BO) and detailed checking would be made upon formal submission stage;
- (c) the granting of planning approval should not be construed as acceptance under the BO of the building works erected within the premises;
- (d) adequate means of escape should be provided to the premises in accordance with regulation 41(1) of the Building (Planning) Regulations (B(P)R) and the Code of practice for Fire Safety in Building 2011 (FS Code);
- (e) access and facilities for persons with a disability should be provided in accordance with regulation 72 of the B(P)R and Design Manual: Barrier Free Access 2008; and

- (f) the premises should be separated from the remaining portion of the building by fire barriers having adequate fire resistance rating pursuant to regulation 90 of the Building (Construction) Regulations and the FS Code.

### **Environmental Aspect**

#### 9.1.3 Comments of the Director of Environmental Protection:

- (a) no objection to the application; and
- (b) the applicant should be reminded to strictly comply with all requirements under all relevant pollution control ordinances, including Water Pollution Control Ordinance, Air Pollution Control Ordinance and Noise Control Ordinance; follow the requirements stipulated in the Environmental Protection Department (EPD) guideline “Control of Oily Fume and Cooking Odour from Restaurants and Food Business” ([www.epd.gov.hk/epd/english/environmentinhk/air/guide\\_ref/pamphlet\\_oilfume\\_eng1.html](http://www.epd.gov.hk/epd/english/environmentinhk/air/guide_ref/pamphlet_oilfume_eng1.html)); and observe the restaurant related environmental laws and licence application procedures ([www.epd.gov.hk/epd/english/greenrestaurant/law/law\\_application.html](http://www.epd.gov.hk/epd/english/greenrestaurant/law/law_application.html)).

### **Fire Safety Aspect**

#### 9.1.4 Comments of the Director of Fire Services:

- (a) no objection to the application subject to all FSIs and equipment as required by the Fire Services Department (FSD) being maintained in an efficient working order at all time; and
- (b) re-submission of FSIs is not required given that a statement on no-change to layout/use/FSIs proposal and the relevant valid Certificates of FSI (FS 251) (**Appendix Ia**) have been submitted by the applicant.

### **Licensing Aspect**

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

- (a) no comment on the application;
- (b) the premises are covered by a valid general restaurant licence which is valid from 28.6.2019 to 27.6.2020;
- (c) two complaints on discharge of waste water into sewage system and discharge of oil into sewage system were received in 2017. For the suspected waste water issue, no follow-up actions were taken as no choking was found upon investigation and the general environmental hygienic condition was considered acceptable. For the suspected discharge of oil,

health education was given to the person in charge of the premises and no further complaint was received after the investigation; and

- (d) two complaints on obstruction and rodent issue were received in 2019. For the suspected obstruction, no illegal extension of the food business was found but serious warning was given to the person in charge of the premises. For the suspected rodent infestation, health education regarding to pest control was given to the person in charge of the premises and plastic guard was added to prevent any rodent from entering the premises.

9.2 The following government departments have no objection to or no comment on the application:

- (a) Chief Engineer/Hong Kong & Islands, Drainage Services Department;
- (b) Chief Engineer/Construction Division, Water Supplies Department;
- (c) Chief Architect/Central Management Division 2, Architectural Services Department;
- (d) Chief Highway Engineer/Hong Kong, Highways Department;
- (e) Commissioner for Transport;
- (f) Commissioner of Police; and
- (g) District Officer (Eastern).

## **10. Public Comments Received During Statutory Publication Period**

- 10.1 During the first three weeks of statutory publication periods of the application (ended on 28.2.2020), one public comment from the Incorporated Owners of Tai Lung House was received. The public comment received is at **Appendix II** for Members' reference.
- 10.2 The public comment stated that Flat M of Tai Chow House caused blockage of the manhole at Quarry Bay with oil as well as blockage of the sewer/drains connecting to Tai Lung House. The problem should be rectified by the owner at his own expenses.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for renewal of the planning approval for 'Eating Place (Restaurant)' use at the premises on a temporary basis for a period of three years until 25.4.2023. The premises falls within an area zoned "R(B)" on the OZP, and the planning intention for the "R(B)" zone is primarily for residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.
- 11.2 The eating place (restaurant) use under the current application is considered not incompatible with the land uses of the surrounding residential developments, where some retail shops and eating places are located at the G/F of the buildings (**Plans A-3 to A-5**). For Tai Chow House where the premises is located, there are separate entrances from Quarry Bay Street for the residential building and the restaurant. The

internal layout of the restaurant under the current application is basically the same as that in the last approved application. There has been no change in the planning circumstances and the surrounding land uses since the granting of the last temporary approval by the Committee on 7.4.2017.

- 11.3 The applicant had complied with the approval conditions associated with the previous planning approvals. The premises has both valid restaurant licence and FSIs certificates, and will be subject to license control by the FEHD each year. FSD has no objection to the application provided that all FSIs and equipment as required by FSD being maintained in an efficient working order at all time. Other relevant government departments consulted have no objection to or no adverse comment on the renewal of the planning approval.
- 11.4 In view of the above, the application complies with the TPB PG-No. 34C. An approval condition is suggested in paragraph 12.2 below to address FSD's concern. It is also suggested to retain the previous approval condition on restricting the door leading to the internal corridor on G/F of Tai Chow House by restaurant staff only (except for emergency) so as to minimise possible nuisance to the domestic units at the same floor. Advisory clauses are also recommended in paragraph 12.2 below to draw the applicant's attention to the requirements under the BO and relevant pollution control ordinances/guideline.
- 11.5 The Committee approved two previous applications at the premises for the same use on a temporary basis for a period of three years in 2014 and 2017. Approval of the current application is in line with the Committee's previous decisions.
- 11.6 For the public concern on the blockage of underground sewer/drains/manhole, DFEH has advised that the last complaint was received in 2017 and follow-up actions were taken to address the problem. There is no recent complaint received.

## **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 renewal of the planning approval for eating place (restaurant) use for a further period of three years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of three years from 25.4.2020 until 25.4.2023. The following conditions of approval and advisory clauses are suggested for Members' reference:

### Approval conditions

- (a) except for emergency, the door leading to the internal corridor on G/F of Tai Chow House shall be restricted for use by restaurant staff only;



- (b) the existing fire service installations implemented at the premises should be maintained in efficient working order at all times during the planning approval period; and
- (c) if any of the above planning conditions is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately 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 for renewal of the planning 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 period of which the permission should be valid on a temporary basis.
- 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**

<b>Appendix I</b>	Application Form received on 24.1.2020
<b>Appendix Ia</b>	Further Information dated 10.3.2020 providing relevant certificates of FSIs and responses to public comment
<b>Appendix II</b>	Public Comment received during the statutory publication period
<b>Appendix III</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Internal Layout Plan Submitted by the Applicant
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plans A-3 to A-5</b>	Site Photos