

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-HH/77

- Applicant** : Ms. LAM Pik Yuk, Wendy
- Premises** : Shop C3, G/F, Marina Cove Shopping Centre, 380 Hiram's Highway, Sai Kung, New Territories
- Floor Area** : About 75.2m²
- Lease** : Lot 526 in D.D. 210 and extension
(a) to be expired on 30.6.2047
(b) commercial development shall not be used for any purpose other than non-industrial purposes (excluding residential) and comprising shops including a supermarket, restaurant, and workshops for boat repairing and associated facilities
- Plan** : Approved Hebe Haven Outline Zoning Plan (OZP) No. S/SK-HH/8
- Zoning** : "Other Specified Uses" annotated "Residential cum Marina Development"
- Application** : Temporary School (Tutorial School) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for a temporary school (tutorial school) for a period of 3 years. The Premises fall within an area zoned "Other Specified Uses" annotated "Residential cum Marina Development" ("OU(Residential cum Marina Development)") on the approved Hebe Haven OZP No. S/SK-HH/8 (**Plan A-1**). According to the Notes of the OZP, temporary school (tutorial school) for a period not exceeding 3 years requires planning permission from the Town Planning Board (the Board), notwithstanding that 'School' is not a Column 1 or 2 use under the zone. The tutorial school has a total floor area of about 75.2m² providing three classrooms for 45 students (**Drawing A-1**). The Premises are being used as the applied use without a valid planning permission.
- 1.2 In support of the application, the applicant has submitted an application form dated 7.10.2020 (**Appendix I**).

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 at **Appendix I** and summarized as follows:

the applicant has been engaging in the education field for many years and has strong mission to the nurturing of children and youth of Hong Kong. She believes that children need support in their course of study, and that learning in turn would enhance wisdom. She would take up teaching duties and train the teaching staff. She will continue to promote the concepts of “love and patience” in teaching with a view to contributing towards education.

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 giving notification. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Applications

There are no previous applications at the Premises.

5. Similar Applications

- 5.1 There are 13 similar applications (Applications No. A/SK-HH/22, 26, 41, 43, 44, 45, 46, 54, 58, 59, 69, 71 and 73) within the “OU(Residential cum Marina Development)” zone (**Plan A-1**). All these applications are for development of learning/training/education centre, tutorial school or kindergarten on temporary basis within the Marina Cove Shopping Centre, of which 12 were approved with conditions by the Committee on consideration that the applications would not frustrate the planning intention of the “OU(Residential cum Marina Development)” zone and traffic arrangements could be implemented and maintained by the applicant.
- 5.2 Application No. A/SK-HH/44 for a temporary kindergarten for a period of 3 years was rejected by the Committee on 10.7.2009. The rejection reasons include: (a) there was insufficient information in the submission to demonstrate that the traffic arrangement for school children by school bus as proposed in the application could be implemented and enforced; and (b) the proposed development might aggravate the existing traffic conditions of the area, and might have adverse traffic impact on Hiram’s Highway.
- 5.3 Details of the applications are summarized at **Appendix II** and their locations are shown on **Plans A-1** and **A-2**.

6. The Premises and Its Surrounding Areas (Plans A-1 to A-3 and Photos in Plans A-4a and A-4b)

6.1 The Premises are:

- (a) one of the shops within Marina Cove Shopping Centre which is a single storey free-standing commercial block in the Marina Cove development and currently used as a tutorial school without a valid planning permission; and
- (b) accessible from Hiram's Highway through the vehicular access at the southern entrance of the Marina Cove development and connected by a footbridge to the other commercial blocks of the Marina Cove Shopping Centre.

6.2 The surrounding areas have the following characteristics:

- (a) there is also a kindergarten and a tutorial school with the same name as the Premises within Marina Cove Shopping Centre, the latter is not covered by a valid planning permission. Other shops in the shopping centre comprise restaurants, real estate agency, convenience store and a supermarket; and
- (b) surrounding Marina Cove Shopping Centre are clubhouse buildings and low-density residential houses in the Marina Cove development.

7. Planning Intention

The planning intention of "OU(Residential cum Marina Development)" zone is for a mixed development of residential, marina and limited commercial retail uses. It covers the existing Marina Cove, which has been fully developed with low-density housing including commercial and marina facilities in accordance with the approved Master Layout Plan (under the lease).

8. Comments from Relevant Government Departments

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

Land Administration

8.1.1 Comments of District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD):

- (a) no comment on the application; and
- (b) the Premises are located within the private lot of Lot 526 in D.D. 210 and the Extension thereto ("the Lot"). According to the lease conditions governing the Lot, a commercial development comprising a gross floor area of not less than 1,858m² nor more than 5,574m², with shop including a supermarket, restaurant, and workshops for

boat repairing and associated facilities is permitted. The commercial development shall not be used for any other purposes other than non-industrial (excluding residential).

Drainage

8.1.2 Comments of Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD):

- (a) no in-principle objection to the application from drainage maintenance viewpoint; and
- (b) necessary stormwater drainage facilities should be provided in association with the temporary school (tutorial school) without causing adverse drainage impact to the areas in the vicinity.

Building Matters

8.1.3 Comments of Chief Building Surveyor/New Territories East 2 & Rail, Buildings Department (CBS/NTE2 & Rail, BD):

- (a) no in-principle objection under the Buildings Ordinance (BO) on the planning application;
- (b) the applicant should be reminded that the temporary school (tutorial school) is required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority; and
- (c) the granting of the planning approval should not be construed as an acceptance of the unauthorized structures on site under the BO. Enforcement action may be taken to effect the removal of all unauthorized works in future.

Fire Safety

8.1.4 Comments of Director of Fire Services (D of FS):

- (a) no in-principle objection to the application subject to fire service installations (FSIs) being provided to the satisfaction of D of FS;
- (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 Fire Services Department for approval. In addition, the applicant should also be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans; and

- (c) the applicant is reminded that if the proposed structure is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

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

- (a) Commissioner for Transport;
- (b) District Officer/Sai Kung, Home Affairs Department;
- (c) Secretary for Education;
- (d) Chief Engineer/Construction, Water Supplies Department; and
- (e) Chief Highway Engineer/New Territories East, Highways Department.

9. Public Comments Received During Statutory Publication Period

On 16.10.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 6.11.2020, 14 public comments from individuals were received (**Appendix III**). 11 commenters support the application and 3 comments are not related to the planning application.

10. Planning Considerations and Assessments

- 10.1 The application is for temporary school (tutorial school) at the Premises within the existing Marina Cove Shopping Centre for a period of 3 years. The Premises fall within an area zoned “OU (Residential cum Marina Development)” on the Hebe Haven OZP which is for a mixed development of residential, marina and limited commercial retail uses. It covers the existing Marina Cove development, which has been fully developed with low-density housing including commercial and marina facilities in accordance with the approved Master Layout Plan (under the lease). Approval of the tutorial school on a temporary basis would not frustrate the planning intention of the “OU (Residential cum Marina Development)” zone.
- 10.2 The tutorial school is small in scale with a total floor area of about 75.2m² providing three classrooms for 45 students, and is located within a free-standing single storey commercial block within the Marina Cove development. It is considered not incompatible with the existing uses such as tutorial schools and shops within the same and surrounding commercial and clubhouse buildings within the Marina Cove development. Relevant government departments consulted have no objection to the application.
- 10.3 The Committee has approved 12 similar applications within the “OU (Residential cum Marina Development)” zone for development of learning/training/education centre, tutorial school or kindergarten on temporary basis within the Marina Cove Shopping Centre on consideration that the applications would not frustrate the planning intention of the “OU(Residential cum Marina Development)” zone and traffic arrangements could be implemented and maintained by the applicant. Approval of the application is in line with the Committee’s previous decisions.

10.4 The public comments supporting the application are noted.

11. Planning Department's Views

11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments in paragraph 9 above, the Planning Department considers that the temporary school (tutorial school) could be tolerated for a period of 3 years.

11.2 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 3 years until 4.12.2023. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the provision of fire service installations 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 4.6.2021; and
- (b) if the above planning condition (a) is not complied with by the specified date, the approval hereby given shall cease to have effect and should on the same date be revoked without further notice.

Advisory Clauses

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

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 period of which the permission should be valid on a temporary basis.

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

Appendix I Application form with plans received on 6.10.2020

Appendix II	Similar planning applications within the “OU(Residential cum Marina Development)” zone
Appendix III	Public comments
Appendix IV	Advisory clauses
Drawing A-1	Location plan submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4c	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2020**