

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/H10/96

<u>Applicant</u>	: Pokfulam Development Company Limited represented by Mr CHEUNG Lai Ping
<u>Premises</u>	: Shop 2, Lower Ground Floor of Block I-J(A3), Scenic Villas, 2-28 Scenic Villa Drive, Hong Kong
<u>Floor Area</u>	: 49.9m ² (about)
<u>Lease</u>	: Inland Lot No. 2596 RP - Unrestricted except the offensive trade restriction and the rate and range requirement
<u>Plan</u>	: Approved Pok Fu Lam Outline Zoning Plan (OZP) No. S/H10/19
<u>Zoning</u>	: “Residential (Group C)” (“R(C)”) - Restricted to a maximum plot ratio (PR) and a site coverage (SC) of 2.25 and 15% respectively for developments with 15 domestic storeys, or those of the existing building, whichever is the greater
<u>Application</u>	: Proposed Eating Place

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for proposed eating place use serving coffee, cakes and sandwiches with business hours of 7:00am to 10:00pm. The Premises falls within the “R(C)” zone on the approved Pok Fu Lam OZP No. S/H10/19 (**Plans A-1 and A-2**). According to the Notes of the OZP, ‘Eating Place’ is a Column 2 use in the “R(C)” zone and requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises, with a floor area of about 49.9m², is located at Shop 2 on the lower ground floor (LG/F) of Block I-J(A3) of Scenic Villas. The Premises is currently vacant. The floor layout plan of the Premises for the applied use submitted by the applicant is at **Drawing A-1**. The LG/F of Block I-J(A3) including the Premises was shown as shops on a building plan approved by Building Authority (BA) in 1981 (**Drawing A-2**), i.e. before the gazettal of first statutory plan No. S/H10/1 in 1986.

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

- (a) Application form received on 2.11.2021 (Appendix I)
- (b) Supplementary Information received on 8.11.2021 (Appendix Ia)
providing internal layout plan and other additional
information of the proposed eating place
- (c) Further Information (FI) received on 14.12.2021 (Appendix Ib)
providing response to public comments
*(accepted and exempted from the publication and
recounting requirements)*

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendices I** and **Ia**. They are summarised as follows:

- (a) there is no eating place in walking distance in the neighbourhood of Scenic Villas. The closest is in Kennedy Town or Cyberport which is about 2 to 3 km away;
- (b) the proposed use would be of benefit the residents in the estate and the neighbourhood as many of them are spending more time at home for home office and Zoom classes during the pandemic; and
- (c) the intended operation would be a coffee house under Light Refreshment Restaurant Licence serving artisanal coffee made onsite, pre-prepared gourmet pastries, fresh baked breads, sandwiches and cakes delivered daily with business hours of 7:00am to 10:00pm. The proposed eating place would have a maximum capacity of 4 staff and serving 17 customers with proposed floor layout at **Drawing A-1**.

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

The applicant is the sole ‘current land owner’. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Previous Application**

The Premises is the subject of a previous planning application (No. A/H10/79) (**Plan A-1**) for minor relaxation of SC restriction for ancillary refuse storage chamber adjacent to the cul-de-sac of Scenic Villa Drive which was approved with condition by the Committee on 22.6.2007 taking into consideration the proposed minor relaxation of SC is minor in nature and solely for accommodating the proposed refuse storage chamber ancillary to the existing development of Scenic Villas.

5. **Similar Application**

There is no similar application for 'Eating Place' use within the "R(C)" zone in the Pok Fu Lam OZP.

6. **The Premises and its Surrounding Areas** (Plans A-1 and A-2 and site photos on Plans A-3 and A-4)

6.1 The Premises is:

- (a) situated on the LG/F of Block I-J(A3) within an existing residential development (i.e. Scenic Villas) comprising 7 residential blocks each of 15 storeys in height over 1 storey of carport, and a stand-alone multi-storey car park (**Plan A-2**);
- (b) currently vacant, right adjacent to a supermarket and a flower shop (**Plan A-3**); and
- (c) accessible via Scenic Villa Drive (private road) to Victoria Road.

6.2 The surrounding areas have the following characteristics:

- (a) predominately low to medium density residential developments to the immediate northeast across Victoria Road, and staff quarters of the University of Hong Kong (HKU) to the southeast side;
- (b) various Government, Institution or Community facilities are located nearby, including MacLehose Medical Rehabilitation Centre to the north, Stanley Ho Sports Centre of HKU to the west and south-west, Kennedy School to the south; and
- (c) the Chinese Christian Cemetery and Tung Wah Coffin Home are located to the further northeast.

7. **Planning Intention**

The "R(C)" zone is intended primarily for low to medium-rise and low to 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 summarised as follows:

Land Administration

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

- (a) the Premises falls within the Remaining Portion of Inland Lot No. 2596 which is held under Government lease as varied by a Deed of Variation dated 5.1.1988 (collectively known as “the Lease”). Offensive trades, including the trade of victualler, is not permitted under the Lease. The Premises is also subject to a No-objection Letter dated 13.11.1984 which permits, inter alia, the use of the Premises for frozen meat shop with an area not exceeding 49.9m²; and
- (b) the applicant is required to apply to LandsD for an offensive trades licence for the proposed eating place, unless the applicant is able to demonstrate full compliance with Lands Department Lands Administration Office Practice Note Issue No. 3/2021 issued on 5.11.2021.

Buildings Aspect

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

no objection to the application and detailed comments on the proposal could only be made at formal building plan submission stage. The Premises was shown as “Frozen Meat Shop” at LG/F on an ‘alterations and additions’ building plan (**Drawing A-2**) which was approved on 17.9.1981 according to their record.

Traffic Aspect

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

no comment from regional traffic police perspective at this stage. The proposal should not cause adverse traffic obstruction in or beyond the site and each temporary traffic arrangement involving works on public carriageway and/or footpath, if any, has to be submitted to Road Management Office of Police and other stakeholders for detailed comment prior to its implementation.

Fire Safety Aspect

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

- (a) no objection in principle to the application subject to fire service installations and water supplies for firefighting being provided to the satisfaction of D of FS. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plan; and
- (b) the fire services requirements regarding licensing premises would be imposed upon receipt of formal application via Licensing Authority.

Licensing

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

the Premises is currently not covered by any food business licence/permit. According to their record, neither licence/permit application nor enquiry from the applicant in connection with the location has been received.

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

- (a) Director of Environmental Protection (DEP);
- (b) Commissioner for Transport (C for T);
- (c) Chief Highway Engineer/Hong Kong, Highways Department (CHE/HK, HyD);
- (d) Chief Engineer/Hong Kong & Islands, Drainage Services Department (CE/HK&I, DSD);
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (f) District Officer (Southern), Home Affairs Department.

9. Public Comments Received During Statutory Publication Period

9.1 On 12.11.2021 the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 3.12.2021, a total of 154 comments were received from the residents/owners of the subject residential development, nearby residents and members of the public, including 61 supporting (samples at **Appendix IIa**) and 93 opposing (samples at **Appendix IIb**). A full set of public comments received on the application is deposited at the Secretariat of the Board for Members' inspection and reference.

9.2 The major views of the supporting comments are summarised as follows:

- (a) traffic and parking demands would not be intensified as the proposed eating place mainly serves the residents living in Scenic Villas and nearby;
- (b) the proposed eating place only serves breads, pastries, sandwiches, cakes and other cold food; hence, there would be minimal smells and waste. Significant hygienic problem will not be anticipated; and
- (c) with the reasonable operation hours, the proposed eating place would not cause noise and disturbance to the residents. The proposed eating place is compatible with the nearby commercial uses (i.e. supermarket and flower shop).

9.3 The major views of the opposing comments are summarised as follows:

- (a) the proposed eating place with take-away service, patrons and cars would worsen the existing traffic condition;
- (b) the proposed eating place would generate disturbance and nuisance, such as hygienic and pest problems, smoke and odour pollutions, noise issue,

fire risk, security issue as well as health risk under the COVID-19 pandemic to the residents;

- (c) the proposed eating place is not compatible with the residential nature and the planning intention of the “R(C)” zone. There is no need for commercialisation of the residential area as Cyberport is in close proximity providing a number of shops and services; and
- (d) the Scenic Villas would face extra security risk due to external visitors brought by the proposed eating place.

10. Planning Considerations and Assessments

- 10.1 The application is to seek planning permission for eating place use serving coffee, cakes and sandwiches at the Premises. The Premises falls within an area zoned “R(C)”, which is intended primarily for low to medium-rise and low to medium-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.
- 10.2 The Premises is located on LG/F of Block I-J(A3) within an existing residential development, i.e. Scenic Villas. Based on the building plans approved by the Building Authority (BA) in 1973, the LG/F of Block I-J(A3) (including the Premises) was designed to be used as carport floor comprising car parking spaces, transformer room, switch room and pump house for non-domestic use. Approval from BA was subsequently sought in 1981 to convert the LG/F into shops. As advised by CBS/HKW, BD, the Premises as shown on the building plan submission approved in 1981 was used as a frozen meat shop. DLO/W&S, LandsD also advised that the Premises is subject to a No-objection Letter dated 13.11.1984 which permits, inter alia, the use of the Premises for frozen meat shop with an area not exceeding 49.9m². According to paragraph 1.2 above, the the LG/F of Block I-J(A3) including the Premises was permitted for shop use before the gazettal of the first statutory plan in 1986. As the Premises is located within the portion designed for shops, the proposed eating place use is considered not incompatible to the neighbourhood in terms of the nature and small scale of the business. From land use perspective, the proposal is considered not incompatible with the neighbourhood. Concerned government departments consulted have not raised any objection or adverse comment.
- 10.3 The supporting public comments are noted. Regarding the opposing public comments received as stated in paragraph 9 above, the applicant’s response to public comments is in **Appendix Ib**. Regarding the comments relating to land use compatibility, the planning assessments above and comments of the government departments in paragraph 8 are relevant. Regarding the comments relating to environmental hygiene, noise, smoke and odour issues, the proposed eating place is required to obtain food business licence from DFEH in consultation with the relevant government departments including BD and DFS. As such, the operation of the proposed eating place would be subject to regulation and control under food business licence/permit. Regarding the concerns on potential security and traffic issues due to external visitors and delivery, as the Premises falls within a residential development with property management services, the matters are subject to the control of the management office of the residential development.

11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments mentioned in paragraph 9, PlanD 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 24.12.2025, and after the said date, the permission shall cease to have effect unless prior to the said date either the development hereby permitted is commenced or this permission is renewed. The following condition of approval and advisory clauses are also suggested for Members' reference:

Approval condition

the provision of fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board.

Advisory clauses

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

- 11.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Member's reference:

the "R(C)" zone is intended primarily for low to medium-rise and low to medium-density residential development. The development is not in line with the planning intention of the "R(C)" zone. No strong planning justification has been given in the submission for a departure from the planning intention.

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 the rejection should be given to the applicant.

13. Attachments

Appendix I	Application form received on 2.11.2021
Appendix Ia	Supplementary Information received on 8.11.2021
Appendix Ib	FI received on 14.12.2021
Appendices IIa and IIb	Public comments
Appendix III	Recommended advisory clauses

Drawing A-1	Floor plan submitted by the Applicant
Drawing A-2	Extract of approved building plan submitted by the Applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3 and A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2021**