

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/H17/142

- Applicant** : The Repulse Bay Company, Limited represented by KTA Planning Limited
- Premises** : Unit 203, 1/F, The Repulse Bay Arcade, 109 Repulse Bay Road, Repulse Bay, Hong Kong
- Floor Area** : About 366.81m²
- Lease** : Rural Building Lot No. 142 (RBL 142)
(a) 75 years commencing from 27.5.1918 and renewable for a further term of 75 years
(b) restricted to either hotel with ancillary shopping facilities or private residential use
(c) for private residential use, a non-residential area is allowed subject to not exceeding 3 storeys and a gross floor area (GFA) of 5,845m²
- Plan** : Approved Shouson Hill & Repulse Bay Outline Zoning Plan (OZP) No. S/H17/13
[for a development of 20 storeys or more, maximum plot ratio (PR) and site coverage (SC) are restricted to 3 and 15% respectively, or the PR and SC of the existing building, whichever is the greater]
- Zoning** : “Residential (Group B)” (“R(B)”)
- Application** : Proposed Shop and Services/Eating Place

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed shop and services and/or eating place uses at the application premises (the Premises), which falls within an area zoned “R(B)” on the OZP (**Plan A-1**). According to the Notes of the OZP for the “R(B)” zone, ‘Shop and Services’ and ‘Eating Place’ are Column 2 uses which require planning permission from the Town Planning Board (the Board).

- 1.2 The Premises, with a floor area of about 366.81m², is located on the 1/F of The Repulse Bay Arcade¹, an existing shopping arcade of the residential development named The Repulse Bay. The location of the Premises is shown on **Drawing A-1** and **Plan A-2**.
- 1.3 The Premises was originally used as a residents' club. Subsequently, the Premises was changed to kindergarten use with planning permission (under Application No. A/H17/66) granted by the Metro Planning Committee (the Committee) of the Board on 28.1.2000 (details in paragraph 4 below). The Premises is currently vacant (**Plans A-4 and A-5**). According to the applicant's submission, it intends to refurbish The Repulse Bay Arcade by introducing new retail and food and beverage (F&B) offerings and revitalising the existing retail and F&B outlets. To allow flexibility for future tenancy, the applicant intends to apply for both shop and services and eating place uses. No additional non-domestic GFA will be induced by these proposed uses. The proposed layout of the Premises is at **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 21.5.2024 **(Appendix I)**
 - (b) Supporting Planning Statement (SPS) **(Appendix Ia)**
 - (c) Further information (FI) received on 3.7.2024[#] **(Appendix Ib)**

[#]exempted from publication requirement

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the SPS and FI at **Appendices Ia and Ib**, which are summarised as follows:

- (a) the proposed uses will complement with other shops and restaurants at the shopping arcade and will continue to meet the planning intention of the "R(B)" zone to serve the Repulse Bay neighbourhood with an adequate range and scale of facilities;
- (b) together with other existing tourist attractions in the proximity, The Repulse Bay Arcade will provide more choices for visitors to enrich their experience in the Repulse Bay area upon the refurbishment works;
- (c) there are similar applications for 'Shop and Services' and 'Eating Place' uses in "R(B)" zones in other OZPs approved by the Board;

¹ The occupation permit (OP) for The Repulse Bay Arcade was first issued in December 1986 prior to the first gazettal of the draft Shouson Hill and Repulse Bay OZP No. S/H17/1 on 18.9.1987. According to the subsequent OP covering the Arcade and the residential blocks of The Repulse Bay of 28.3.1989, the Premises was used as a residents' club.

- (d) the alteration and addition works for the proposed uses will be confined within the Premises and no increase in GFA will be involved. There will not be any increase in building bulk; and
- (e) no adverse traffic, sewerage and fire safety impacts arising from the proposed uses are anticipated.

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

The applicant is the “current land owner” of the Premises. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Applications

The Premises is the subject of two previous applications (No. A/H17/66 and 118). Application No. A/H17/66 for proposed school (kindergarten) use was approved with conditions by the Committee of the Board on 28.1.2000 mainly on the grounds that the proposed use was considered not incompatible with the surrounding land uses; and the proposed use would not create significant disturbance to the residents of The Repulse Bay and traffic impact along Repulse Bay Road. 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 was approved with conditions by the Board on 26.10.2007 on review mainly on the grounds that the proposed uses were similar to the existing uses within the Arcade; the modest increase in non-domestic GFA; there were no adverse visual, traffic, environmental and infrastructural impacts arising from the proposed uses; and there was planning merit of the proposal. The Premises formed part of this application and remained as kindergarten use. Details of the applications are summarised at **Appendix II** and their locations are shown on **Plan A-2**.

5. Similar Application

There is only one similar application for restaurant use within the same “R(B)” zone on the OZP. Application No. A/H17/5 was for conversion of a plant nursery in The Repulse Bay Arcade to a restaurant, and was approved with condition by the Board on 23.6.1989 on the considerations that the scale of development was small, the proposed use was compatible with the existing commercial uses within the shopping arcade and would not create disturbance to the residents of The Repulse Bay. Details of the application are summarised at **Appendix III** and its location is shown on **Plan A-2**.

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

6.1 The Premises is:

- (a) located on 1/F of an existing shopping arcade named The Repulse Bay Arcade. The current uses of the subject building by floors are summarised as follows:

| Floor | Uses |
|--------------|--|
| LG/F | Carpark, loading/unloading area |
| G/F and 1/F | The Premises , supermarket, restaurants, retail shops, clinics, beauty parlour, laundry, art gallery and art studio and vacant premises |

- (b) accessible from Repulse Bay Road.

6.2 The surrounding areas have the following characteristics:

- (a) to the north, east and west of the shopping arcade are residential developments; and
- (b) to its south across Repulse Bay Road are Repulse Bay Gardens and a car showroom; and to its further south across Beach Road is Repulse Bay Beach.

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) no objection to the application;
- (b) the Premises is located within RBL 142 (the Lot) which is governed by the Government Lease dated 16.7.1928 as varied or modified by two Deeds of Variation dated 20.3.1985 and 30.9.1987 respectively and a Modification Letter dated 29.6.1992 (the Lease) for a term of 75 years commencing from 27.5.1918 and renewable for a further term of 75 years. The Lot is restricted to either hotel purpose together with ancillary shopping and other facilities (total GFA not

exceeding 51,473m²); or private residential purpose (total GFA not exceeding 47,473m²) plus a non-residential area of not exceeding 5,845m² GFA. The maximum site coverage (SC) permissible under the Lease is 15%. The non-residential area is permitted to be provided in a building not exceeding 3 storeys and shall be used for non-industrial (excluding godown) purposes. For the non-residential area, one loading and unloading (L/UL) bay shall be provided for every 930m² or part thereof of the total GFA designated for a supermarket, and two L/UL bays shall be provided for the total GFA designated for commercial use excluding supermarket. The L/UL bay provided in accordance with the above lease requirements will not be taken into account for GFA or SC calculation. Besides, the Lot is subject to offensive trade clause; and

- (c) if the total L/UL bay for non-residential area on site exceeds those permitted numbers that could be exempted from the calculation of GFA and SC as mentioned above, it shall be taken into account for the purpose of calculating the total GFA and SC under the Lease. The applicant should demonstrate under the above circumstance that the total GFA and SC restrictions under the Lease are complied with. Otherwise, if the s.16 planning application is approved, the registered owner has to apply to LandsD for a lease modification to cater for the above scenario. If the application for lease modification is approved by LandsD in the capacity as the Landlord, it will be subject to such terms and conditions, including payment of premium as considered appropriate by LandsD at its sole discretion. In addition, as the proposed 'eating place' is restricted by the offensive trades clause under the Lease, the register owner shall refer to Lands Administrative Office Practice Note Issue No. 3/2023 promulgated in the webpage of LandsD for the necessary arrangement.

Traffic

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

- (a) no objection in principle to the application from the traffic engineering viewpoint; and
- (b) there are a total of five L/UL spaces in the carpark of The Repulse Bay Arcade to support the operation of the Premises.

Building Matters

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

- (a) no objection to the application under the Buildings Ordinance; and

- (b) other detailed comments are at **Appendix IV**.

Environmental

8.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) no objection to the application; and
- (b) the applicant should properly modify the Premises and incorporate mitigation measures appropriately to suit the changes and to control potential pollution/environmental impact.

Fire Safety

8.1.5 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 (FSD). Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans or referral from the licensing authority.

Licensing

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

- (a) the Premises is not covered by any food licence now and before;
- (b) the operation of any eating place should be under a food licence issued by the Food and Environmental Hygiene Department (FEHD). If the operator intends to operate a food business, a relevant food licence (such as a general restaurant/light refreshment restaurant licence) should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132). The application for restaurant licence, if acceptable by FEHD, will be referred to relevant government departments, including but not limited to BD, FSD and Planning Department for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements; and
- (c) the applicant is responsible for disposal of waste generated from the Premises at their own cost.

8.2 The following government departments have no objection to or 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;
- (d) Commissioner of Police;
- (e) District Officer (Southern), Home Affairs Department; and
- (f) Director of Electrical and Mechanical Services.

9. Public Comment Received During Statutory Publication Period

On 28.5.2024, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

10. Planning Considerations and Assessments

- 10.1 The application is for proposed shop and services and/or eating place uses at the Premises within the “R(B)” zone on the OZP (**Plan A-1**). 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. The Premises is situated within a residential neighbourhood with a famous tourist destination, i.e. Repulse Bay Beach, to the south. The proposed uses within an existing shopping arcade serving the public including local residents and visitors are generally in line with the planning intention of the “R(B)” zone.
- 10.2 The Premises is located on the 1/F of The Repulse Bay Arcade, which is a three-storey shopping arcade mainly comprising shops, eating places, clinics and supermarket. The proposed uses are considered not incompatible with the current uses of the subject shopping arcade and the surrounding areas. Besides, the shopping arcade is physically segregated from the residential portion of The Repulse Bay with direct access fronting Repulse Bay Road. Disturbance or nuisance to the residents of the residential development is not anticipated.
- 10.3 Given the small scale of development and no increase in GFA, adverse traffic, environmental, fire safety and hygiene impacts on the area are not anticipated. In this regard, relevant Government departments, including C for T, DEP, D of FS and DFEH have no objection to the application.
- 10.4 One similar application for restaurant use at The Repulse Bay Arcade was approved by the Board in 1989 on the considerations that it was not an incompatible use and no disturbance/nuisance to local residents was anticipated. Approval of the current application is consistent with the previous decision of the Board.
- 10.5 There is no public comment received on the application.

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 16.7.2028, 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 advisory clauses are also suggested for Members' reference:

Advisory clauses

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

- 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

| | |
|-----------------------------|--|
| Appendix I | Application Form received on 21.5.2024 |
| Appendix Ia | Supplementary Planning Statement |
| Appendix Ib | FI received on 3.7.2024 |
| Appendix II | Previous s.16 planning applications |
| Appendix III | Similar s.16 planning application |
| Appendix IV | Detailed departmental comments |
| Appendix V | Recommended advisory clauses |
| Drawings A-1 and 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 |