

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

**APPLICATION NO. A/H18/89**

<b><u>Applicant</u></b>	: Mr. Lee Yat Man represented by APL Architects and Consultants Limited
<b><u>Premises</u></b>	: Ground Floor (G/F) (Portion), 29 Big Wave Bay Village, Shek O, Hong Kong
<b><u>Floor Area</u></b>	: About 73.2m <sup>2</sup>
<b><u>Land Status</u></b>	: Government land
<b><u>Plan</u></b>	: Approved Tai Tam and Shek O Outline Zoning Plan (OZP) No. S/H18/10
<b><u>Zoning</u></b>	: “Open Space” (“O”)
<b><u>Application</u></b>	: Proposed Eating Place

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed eating place at G/F of the existing one-storey structure<sup>1</sup> (the Premises). The one-storey structure is currently being used as a store and falls within an area zoned “O” on the approved Tai Tam & Shek OZP No. S/H18/10. According to the Notes of the OZP for “O” zone, ‘Eating Place’ is a Column 2 use, which requires planning permission from the Town Planning Board (the Board).
- 1.2 According to the applicant, the proposed eating place at the Premises is primarily for serving the local residents and visitors to the Big Wave Bay Beach, which will open from 8:00 a.m. to 6:00 p.m. everyday including public holidays. The Premises will comprise seating accommodation area and a food preparation room with maximum capacity of 25 persons. A plan showing the layout of the Premises submitted by the applicant is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following document :
  - (a) Application form received on 27.7.2022 **(Appendix I)**

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<sup>1</sup> The existing one-storey structure has a total floor area of about 200m<sup>2</sup>. The proposed eating place would occupy an area of 73.2m<sup>2</sup> or about 37% of the existing floor area.

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

The justifications put forth by the applicant in support of the application are detailed in Part 10 of the application form at **Appendix I**. They can be summarized as follows:

- (a) There is a demand for eating place to serve for local residents and visitors to the Big Wave Bay Beach.
- (b) The application involves the conversion of part of an existing store within an original one-storey structure to an eating place. No land use incompatibility with the surrounding areas is resulted.
- (c) The proposed eating place would be a light refreshment place and small in scale. It is unlikely to cause environmental nuisance or traffic impact on the existing environment.
- (d) The applicant will fulfil the requirements in respect of wastewater discharge, fire service installations and provision of sufficient means of escape for the proposed eating place.

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

As the application premises involves Government land only, the “Owner’s Consent/Notification” requirement 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) is not applicable to the application.

## 4. **Previous Application**

- 4.1 Part of the Premises is the subject of a previous application No. A/H18/63 submitted by another applicant (**Plan A-2**).
- 4.2 On 26.11.2010, the planning application No. A/H18/63 for proposed eating place with floor area of about 57.2m<sup>2</sup> was approved with condition by the Metro Planning Committee (the Committee) of the Board on the grounds that the proposed use was not incompatible with surrounding areas and unlikely created adverse impacts, and approval of the application would not jeopardise the long-term planning intention of the “O” zone. However, the planning permission was lapsed on 26.11.2014 due to non-compliance with the approval condition of provision of fire service installations.
- 4.3 As compared with the previously approved application No. A/H18/63, the floor area under current application (i.e. about 73.2m<sup>2</sup>) is slightly larger than that of the previous application.
- 4.4 Details of the application are summarised in **Appendix III** and the location is shown on **Plan A-2**.

## **5. Similar Application**

There is no similar application for ‘Eating Place’ use within the “O” zone in the Tai Tam and Shek O area.

## **6. The Site and Its Surrounding Areas (Plans A-1 to Plan A-5)**

6.1 The application premises is :

- (a) part of the existing one-storey structure (about 200 m<sup>2</sup>) being used as a store selling refreshment and beach wear/gear as well as providing locker rental service at the southern fringe of the Big Wave Bay Village; and
- (b) accessible via a local road/footpath connecting the Big Wave Bay Beach and Big Wave Bay Road.

6.2 The surrounding areas have the following characteristics :

- (a) to its north and east are the Big Wave Bay Village and the Big Wave Bay Beach respectively;
- (b) to its immediate south is an open space, namely the Big Wave Bay Picnic Area; and
- (c) a number of similar stores can be found in the proximity of the application premises.

## **7. Planning Intention**

The “O” zone is intended primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

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

8.1 The following Government departments have been consulted and their views on the application and the public comment received 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 application premises situates on unleased and unallocated government land without prior Government’s approval. Having said that, the application premise has been recorded in the 1982 Squatter Control Survey with particulars as follows:

Survey Nos. RH/15A/301 & RH/15A/302

Dimensions: 37 x 54 x 10 (all in feet)

Materials: Brick/Steel/Tin

Use: Shop/Storage/Garage

- (b) under the prevailing squatter control policy, the application premises is tolerated on a temporary basis until it has to be cleared for development, environmental improvement or safety reason, or until it is phased out through natural wastage. No rebuilding, extension, alteration or change of building materials etc. of the premises during its lifetime is permitted; and
- (c) given the recorded uses in 1982 Squatter Control Survey, there is no adverse comment on the proposed eating place use.

### **Traffic Aspect**

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

- (a) no comment on the application from traffic engineering viewpoint; and
- (b) it is noticed that the footpaths/roads surrounding the application premises are not under the management of Transport Department. It is considered that the traffic impact on the public road induced by the application is minimal.

### **Environmental Aspect**

#### 8.1.3 Comments of the Director of Environmental Protection (DEP) :

- (a) no objection to the application from environmental planning perspective;
- (b) according to the information provided by the applicant, the subject site is served by septic tank system and the applicant will apply for relevant licence for the wastewater discharge from the proposed use;
- (c) in view of the small scale and nature of the proposed eating place, adverse environmental impact is not anticipated; and
- (d) the applicant is reminded to observe and comply with the requirements under the relevant pollution control ordinances.

### **Building Aspect**

#### 8.1.4 Comment of the Chief Building Surveyor/Hong Kong West, Buildings Department :

As the subject site falls on unleased government land, Buildings Department is not in a position to offer comment as it is exempt from the provisions of the Buildings Ordinance.

### **Fire Safety Aspect**

#### 8.1.5 Comments of the Director of Fire Services (D of FS) :

- (a) no in-principle objection to the application subject to fire service installations and water supplies for firefighting being provided to the satisfaction of the Fire Services Department; and
- (b) the fire services requirements regarding licensed premises would be imposed upon receipt of formal application via Licensing Authority.

### **Drainage Aspect**

#### 8.1.6 Comments of the Chief Engineer/Hong Kong & Islands, Drainage Services Department (CE/HK & I, DSD) :

- (a) no objection in principle to the planning application;
- (b) the sewage impact arising from the captioned application could be minimal taking into account its small scale; and
- (c) the proposed development should have its own storm-water collection and discharge system to cater for the runoff generated within the subject sites as well as overland flow from areas in the vicinity.

### **Food and Environmental Hygiene Aspect**

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

- (a) The application premises is not covered by any valid food licence, but has a valid restricted food permit-Frozen Confections Permit<sup>2</sup>(till 31.3.2023);
- (b) if the applicant intends to operate any food business at the premises, relevant food licence/restricted food permit should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132);
- (c) no environmental nuisance should be generated to the surroundings in connection with the operation of any commercial/trading activities; and
- (d) any waste generated from the commercial/trading activities is regarded as trade waste, and the applicant should handle such on his own/at his expenses.

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<sup>2</sup> According to the Frozen Confections Regulation (Cap. 132AC), frozen confection means any confection commonly sold for human consumption in a frozen or chilled state. Some examples are ice-cream (including hard ice-cream and soft ice-cream sale for serving in retail outlets, as well as pre-packaged ice-cream in original cups and wrappers), frozen yoghurt and sundae.

### **Leisure and Cultural Services Aspect**

8.1.8 Comments of the Director of Leisure and Cultural Services (DLCS) :

- (a) no comment on the application; and
- (b) there is no programme to develop the remaining portion of “O” zone which covers the subject squatter area at this stage.

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

- (a) Chief Architect/Central Management Division 2, Architectural Services Department;
- (b) Chief Engineer/Development (2), Water Supplies Department;
- (c) Chief Highway Engineer/Hong Kong, Highways Department;
- (d) Commissioner of Police;
- (e) Director of Agriculture, Fisheries and Conservation;
- (f) Director of Electrical and Mechanical Services;
- (g) District Officer (Southern), Home Affairs Department; and
- (h) Head of Geotechnical Engineering Office, Civil Engineering and Development Department

## **9. Public Comment Received During Statutory Publication Period**

- 9.1 On 5.8.2022, the application was published for public inspection. During the first three weeks of the public inspection period, which ended on 26.8.2022, one public comment from Kadoorie Farm & Botanic Garden Corporation was received (**Appendix II**).
- 9.2 The public comment mainly provides a view that the Board, before making decision, should make sure with relevant parties/authorities the potential sewage generated by the proposed use would be properly treated and would not affect the watercourse not too far from the premises, which drains into the Big Wave Bay Beach.

## **10. Planning Considerations and Assessment**

- 10.1 The applicant seeks planning permission for proposed eating place at the Premises, which is the conversion of part of the existing one-storey structure currently used as a store to a light refreshment place, to serve the local residents and visitors to the Big Wave Bay Beach.
- 10.2 The Premises falls within an area zoned “O” which is intended primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. DLCS states that he does not have any plan/programme to develop the concerned “O” site under the OZP at this juncture. From the squatter control perspective, DLO/HKW&S, LandsD has no adverse comments on the proposed eating place and advises that under the prevailing policy, the application premises is tolerated

on a temporary basis until it has to be cleared for development. As such, the approval of the application would not jeopardise the long-term planning intention of the “O” zone.

- 10.3 The Premises is located in close proximity to the Big Wave Bay Beach and recreational facilities such as barbecue area, children’s playground and picnic area. There are similar structures near the Premises, being used as stores for sale of refreshment or beach wear, provision of locker rental services, etc. to serve the visitors to the beach. The proposed eating place at the Premises, which involves a change in the type of use, would not result in land use incompatibility with the surrounding area.
- 10.4 The proposed eating place, which is small in scale with maximum accommodation capacity of about 25 persons and occupied floor area of about 73.2m<sup>2</sup>, would unlikely create adverse impacts to the surrounding areas. In this regard, relevant Government departments including C for T, DEP, D of FS and CE/HK & I of DSD have no objection to the application. The Premises is the subject of previous application No. A/H18/63 for the same eating place use, which was approved with condition by the Committee in 2010 on the grounds that the proposed use was not incompatible with surrounding areas and unlikely created adverse impacts, and approval of the application would not jeopardise the long-term planning intention of the “O” zone.
- 10.5 Regarding the public concern on the sewage impact to the Big Wave Bay Beach, the planning assessments above and departmental comments in paragraph 8 above are relevant.

## **11. Planning Department’s Views**

- 11.1 Based on the assessment made in paragraph 10 and having taken into account the public comment mentioned in paragraph 9, 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 23.9.2026, 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 condition of approval and advisory clauses are suggested for Members’ reference:

### Approval condition

The provision of fire service installations and water supplies for firefighting 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 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 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**

<b>Appendix I</b>	Application Form received on 27.7.2022
<b>Appendix II</b>	Public Comment
<b>Appendix III</b>	Previous Application
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Proposed Layout Plan of G/F (Portion)
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4 to A-5</b>	Site Photos

**PLANNING DEPARTMENT  
SEPTEMBER 2022**