

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

**APPLICATION NO. A/H3/443**

- Applicant** : World Partner Limited
- Premises** : G/F, 4 David Lane, Sai Ying Pun, Hong Kong
- Floor Area of the Premises** : About 55.4m<sup>2</sup>
- Lease** : Inland Lot (I.L.) No. 8115 (Part)  
(a) subject to a non-offensive trades clause  
(b) a licence for the removal of the five non-offensive trades, namely sugar-baker, oilman (excluding petrol filling station), butcher, victualler and tavern-keeper, was granted to the premises on 16.12.2016
- Plan** : Approved Sai Ying Pun & Sheung Wan Outline Zoning Plan (OZP) No. S/H3/34
- Zoning** : “Government, Institution or Community” (“G/IC”)  
  
[restricted to a maximum building height (BH) of 2 storeys, or the height of the existing building, whichever is the greater]
- Application** : Renewal of Planning Approval for Temporary Eating Place for a Period of 5 Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning approval to continue using the application premises at G/F, 4 David Lane, Sai Ying Pun (the Premises) for temporary eating place for a period of 5 years. The Premises falls within an area zoned “G/IC” on the approved Sai Ying Pun & Sheung Wan OZP No. S/H3/34 (**Plans A-1 and A-2**). According to the Notes of the OZP for “G/IC” zone, ‘Eating Place’ is a Column 2 use and planning permission from the Town Planning Board (the Board) is required.
- 1.2 The Premises is the subject of a previous application (No. A/H3/431) for the same temporary use which was approved with conditions by the Metro Planning

Committee (the Committee) of the Board for a period of 5 years on 12.8.2016. The Premises is currently used for the applied use with valid planning permission which will expire on 12.8.2021 (**Plans A-3 to A-5**). The approval condition of the last application (No. A/H3/431) relating to the submission and implementation of fire service installations (FSIs) and water supplies for firefighting has already been complied with.

- 1.3 The Premises is located at the G/F of a 2-storey domestic building at 4 David Lane and is accessible from Centre Street via David Lane which is pedestrianized. As there is no vehicular access serving the subject building, access to the Premises is by foot. According to the applicant, loading/unloading of goods and supplies would take place on either Second Street or Third Street, both of which are within 50m from David Lane, and would be delivered to the Premises by staff (**Plan A-2**). The operation hours of the eating place is from 8:00a.m. to 6:00p.m. Tuesdays to Sundays. The layout plan, and perspective drawing of the eating place submitted by the applicant are at **Drawings A-1 and A-2**.
- 1.4 Compared with the last approved application (No. A/H3/431), except that the current application is submitted by a different applicant, there is no change in the applied use, layout and floor area of the Premises.
- 1.5 In support of the application, the applicant has submitted the following documents:
  - (a) Application Form and supporting information (**Appendix I**) received on 11.5.2021
  - (b) Supplementary information received on 14.5.2021 (**Appendix Ia**) providing clarification on access to the Premises and confirming there is no change to the layout and applied use
  - (c) Further Information received on 28.6.2021 providing (**Appendix Ib**) clarifications and an updated access plan<sup>#</sup>

<sup>#</sup> accepted and exempted from publication and recounting requirement

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

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

- (a) the approval condition under the previous application (No. A/H3/431) has been complied with;
- (b) there is no change in the applied use and layout of the Premises under the current renewal application;

- (c) most of the fresh food supplies will be purchased from the local suppliers and from Sai Ying Pun Market which is no more than 50m from the Premises. Given the proposed eating place will be a small-scale operation, the scale of deliveries will be small;
- (d) the Premises is located within easy access from Sai Ying Pun MTR Station, and customers will access to the Premises on foot; and
- (e) the subject eating place can foster the economic growth in the area and offers a reasonably priced, pleasant dining experience for local residents.

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

- 4.1 The 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) are relevant to the application. The relevant extract of its assessment criteria are summarized 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 of 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 department 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. In general, the Board is unlikely to grant an approval period exceeding three years unless there are strong justifications and the period is allowed for under the relevant statutory plans. Depending on the circumstances of each case, the Board could determine the appropriate approval period, which may be shorter than the time under request.

## 5. **Background**

The existing 2-storey domestic building at 4 David Lane, where the Premises is located, was completed in 1950 and was zoned “Government Reservation” (“G”), “Residential” and “Open Space” (“O”) on the first statutory plan covering the Sai Ying Pun & Sheung Wan area gazetted on 20.3.1970. Minor adjustments to the relevant boundaries of the “G/IC” zone were subsequently made on the draft Sai Ying Pun & Sheung Wan OZP No. S/H3/33 such that the subject building and its adjacent lots falls entirely within the “G/IC” zone.

## 6. **Previous Application**

- 6.1 The Premises is the subject of a previous application (No. A/H3/431) (**Plan A-1**) for the same temporary eating place use which was approved with conditions by the Committee for a period of 5 years on 12.8.2016 mainly on the consideration that the proposed eating place was unlikely to frustrate the planning intention of the “G/IC” zone in the long run; the proposed use was not incompatible with its surroundings; separate access to the eating place could avoid nuisance made to residents on the upper floor; the small scale and nature of operation was unlikely to cause significant adverse impacts; and the proposal generally complied with TPB PG-No. 16. The approval condition in relation to the submission and implementation of FSIs and water supplies for firefighting has been complied with and the planning permission is valid until 12.8.2021. Details of the application is at **Appendix II**.
- 6.2 Compared with the previous application (No. A/H3/431), the current application is submitted by a different applicant for the same use at the same application premises.

## 7. **Similar Application**

There is no similar application for eating place use within the subject “G/IC” zone. However, a planning application (No. A/H3/421) for proposed eating place on G/F, 1-7 Tak Sing Lane under “O” zone at the time of application (now “R(A)24”<sup>1</sup> zone on the OZP currently in force) was approved with conditions by the Committee on a permanent basis on 23.5.2014. Details of the similar application is at **Appendix III**.

## 8. **The Premises and its Surroundings (Plans A-1 and A-2, and site photos on Plans A-3 to A-5)**

- 8.1 The Premises:

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<sup>1</sup> The site at 1-7 Tak Sing Lane was originally zoned “O”, “R(A)8” and an area shown as ‘Pedestrian Precinct/Street’. To take forward a s.12A application (No. Y/H3/6) which was partially agreed by the Committee on 18.1.2019, the site was subsequently rezoned to “R(A)24” on the draft OZP No. S/H3/33 gazetted on 9.8.2019.

- (a) is located on the ground floor of a 2-storey tenement building which was completed in 1950. It is currently occupied by the applied use with planning permission under Application No. A/H3/431; and
- (b) has direct frontage and access to David Lane. There is a separate access to the staircase leading to 1/F of the building from David Lane direct. David Lane, which is not a vehicular access, is connected to Centre Street. Vehicular access is prohibited at the section of Centre Street between Second Street and Third Street.

8.2 The surrounding areas have the following characteristics:

- (a) to the immediate north and south are areas zoned “R(A)8” with a mix of medium and high-rise residential buildings with commercial uses such as shops and restaurants on the ground floor;
- (b) to the immediate east are three 2-storey tenement buildings at 1-3 David Lane completed in 1950 and to the further east is David Lane Sitting Out Area, all of which are under the same “G/IC” zone as the Premises;
- (c) to the immediate west is an area zoned “R(A)24” at 1-7 Tak Sing Lane which is currently occupied by seven 3-storey residential buildings;
- (d) to the further north across Second Street is the Centre Street Market and to the further east across Centre Street is the Sai Ying Pun Market (both within 50m of the Premises); and
- (e) the Premises is well served by public transport, including MTR and public light buses. The Premises is about 40m away from the entrance of Sai Ying Pun MTR Station which is located to the north across Second Street.

## **9. Planning Intention**

The “G/IC” zone is intended primarily for the provision of GIC facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments.

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

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

### **Land Administration**

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

- (a) the Premises falls within IL 8115 where its Government lease is subject to a non-offensive trades clause. A licence for the removal of the five non-offensive trades, namely sugar-baker, oilman (excluding petrol filling station), butcher, victualler and tavern-keeper, was granted to ground floor of the existing building on the subject lot on 16.12.2016. The application is thus considered acceptable under the lease conditions governing the Premises; and
- (b) the proposal submitted by the applicant does not conflict with the lease conditions governing the Premises and so if the proposal is approved by the Board, the owner is not required to seek lease modification from LandsD to implement it. Therefore, any planning conditions, if imposed by the Board, cannot be written into the lease through lease modification.

### **Traffic**

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

- (a) no in-principle objection to the application at nil provision of car parking and loading/unloading (L/UL) spaces, given the small and constrained site layout; being conveniently located to public transport services; and the small scale of the development;
- (b) a prohibited zone is designated at Centre Street (between Second Street and Third Street). No person shall drive any motor vehicles in the prohibited zone;
- (c) L/UL shall be confined along kerbside without no-stopping restrictions; and
- (d) C for T has the right to impose, alter or cancel any no-stopping restrictions to cope with changing traffic conditions and needs. The road space and kerbside would not be reserved for any exclusive uses of the subject development.

#### 10.1.3 Comments of the Commissioner of Police (C of P):

- (e) no comment on the application from regional traffic police perspective; and
- (f) the proposal should not cause adverse traffic impact to the local community nor cause adverse traffic obstruction in or beyond the site of the works and each Temporary Traffic Arrangement (TTA) involving works on footpath and/or carriageway has to be submitted to Police for appropriate comment, if any.

**Food and Environmental Hygiene**

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

- (a) under the Food Business Regulation (Cap.132X), food business operators are required to obtain a relevant food business licence from the Food and Environmental Hygiene Department prior to operation of the food business;
- (b) according to record, there is a licensed restaurant at the Premises. A General Restaurant Licence was first issued to the Premises on 20.9.2017 and the validity period of the current licence is from 20.9.2020 to 19.9.2021; and
- (c) since the operation of the licensed restaurant at the Premises, 5 complaints to the restaurant were received. The nature of the complaints include pavement obstruction (4 nos.) and contravention of Cap 599F Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (1 no.). Verbal/written warnings were issued and the relevant irregularities have been rectified.

**Environment**

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

- (a) no objection to the application from an environmental planning perspective; and
- (b) the applicant is reminded to observe relevant environmental legislations (e.g. the Air Pollution Control Ordinance) regarding the potential cooking fume nuisance generated by the possible uses (such as kitchen, etc.), if any, affecting the nearby residential buildings.

**Building Matter**

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

- (a) no in-principle objection under Buildings Ordinance (BO) to the planning application;
- (b) while discrepancies are noted between the layout plan Dwg. No. PD-01 LA-01 and the fire services layout plan Dwg. No. 2015-8-19-012-04, detailed comments on the proposal could only be made at formal building plans submission stage in respect of any alteration and addition works or notification of change in use at the subject premises; and

- (c) for the use of a restaurant, the following issues should be addressed in case any plans are submitted for approval or statutory procedures carried out under minor works control system for carrying out of building works under the BO:
  - (i) provision of access and facilities for person with disability in accordance with Design Manual: Barrier Free Access 2008;
  - (ii) adequate sanitary provisions should be provided for the premises in accordance with Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) (Amendment) Regulation 2015; and
  - (iii) adequate natural lighting and ventilation should be provided for any kitchen in the restaurant under Building (Planning) Regulations 30 and 31.

### **Fire Safety**

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

No objection in principle to the application provided that all existing FSIs and equipment as required by the Fire Services Department (FSD) are maintained in an efficient working order at all times.

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

- (a) Chief Highway Engineer/Hong Kong, Highways Department (HyD);
- (b) Chief Engineer/Railway Development 2-2, Railway Development Office, HyD;
- (c) Director of Leisure and Cultural Services;
- (d) Chief Engineer/Hong Kong & Islands, Drainage Services Department;
- (e) Chief Engineer/Construction, Water Supplies Department;
- (f) Chief Architect/Central Management Division 2, Architectural Services Department;
- (g) Project Manager (South), Civil Engineering and Development Department; and
- (h) District Officer (Central and Western), Home Affairs Department.

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

On 18.5.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 8.6.2021, no public comment was received.



## **12. Planning Considerations and Assessments**

- 12.1 The application is for the renewal of the planning permission for temporary eating place use at the Premises for a further period of 5 years. Although the applied use is not entirely in line with the planning intention of the “G/IC” zone, there is currently no designated GIC use for the site at 4 David Lane, where the Premises is located, as well as its adjacent area within the same “G/IC” zone. In this regard, approval of the renewal application on a temporary basis would not frustrate the planning intention of the “G/IC” zone in the long run.
- 12.2 As compared with the previously approved planning application (No. A/H3/431), there is no change in the applied use, layout and floor area of the Premises. Given the small scale (with floor area of about 55.4m<sup>2</sup>) and nature of operation of the applied use, significant adverse impacts on the surrounding areas in terms of traffic, drainage, sewerage, and fire safety aspects are not anticipated. Concerned government departments have no objection to or no adverse comments on the application. While there were a few complaints on the existing eating place in the past years, they have been resolved effectively under the relevant legislations. The approval condition under the previous application in relation to the submission and implementation of FSIs and water supplies for firefighting has already been complied with. In this regard, relevant approval condition on maintaining the existing FSIs as required by FSD is recommended, should the application be approved by the Committee. Relevant advisory clauses relating to potential environmental nuisances and traffic impact are also suggested in paragraph 13.2 below.
- 12.3 In view of the above, the subject renewal application complies with the relevant assessment criteria of TPB PG-No. 34C in that there has been no major change in planning circumstances of the Site and the surrounding areas since the previous temporary approval other than the changes in land use zonings of the adjacent site at 1-7 Tak Sing Lane as mentioned in paragraph 7 above; there is no adverse planning implication arising from the renewal; the approval condition under the previous application has been complied with; and the approval period sought is considered reasonable and of the same timeframe as the previous approval.
- 12.4 There is no public comment on the application.

## **13. Planning Department's Views**

- 13.1 Based on the assessment made in paragraph 12 above, PlanD has no objection to the application.
- 13.2 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 5 years and be renewed from 13.8.2021 to 12.8.2026. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval conditions

- (a) the existing fire service installations implemented on the Premises should be maintained at all times during the planning approval period.
- (b) if the above planning condition (a) is not complied with at any time during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

*[The above approval conditions have been updated to accord with the latest comment of D of FS.]*

Advisory clauses

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

13.3 There is no strong reason to recommend rejection of the application.

**14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning permission.
- 14.2 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.
- 14.3 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.

**15. Attachments**

<b>Appendix I</b>	Application form received on 11.5.2021
<b>Appendix Ia</b>	Supplementary information received on 14.5.2021 providing clarification on access to the Premises and confirming there is no change to the layout and applied use
<b>Appendix Ib</b>	Further Information received on 28.6.2021 clarifying the operation hours of the Premises and providing an updated access plan
<b>Appendix II</b>	Previous Application covering the Application Premises
<b>Appendix III</b>	Similar Application
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan

**Plans A-3 to A-5**

Site Photos

**PLANNING DEPARTMENT  
JULY 2021**