

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/H3/447

- Applicants** : Mr. YIP Chi Fai and Ms. TANG Hei Man Elsa represented by Grandmax Surveyors Limited
- Premises** : G/F, 1-2 David Lane, Sai Ying Pun, Hong Kong
- Total Floor Area** : About 110.6m²
- Lease** : Inland Lots (I.L.) No. 8112 (Part) and 8113 (Part)
- subject to a standard offensive trade clause
- 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** : Proposed Temporary Eating Place for a Period of 5 Years

1. The Proposal

- 1.1 The applicants seek planning permission to use the application premises on G/F of 1-2 David Lane, Sai Ying Pun (the Premises) for proposed temporary eating place for a period of 5 years. The Premises fall 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’ use, except canteen and cooked food centre which are always permitted, requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises are located on G/F of two adjoining 2-storey domestic buildings at 1-2 David Lane. They comprise two ground floor units with separate entrances facing David Lane, which is a pedestrian alleyway, teeing off from Centre Street. As there is no vehicular access serving the subject buildings, access to the Premises is by foot. The Premises are currently vacant and are proposed to be operated as small-scale cafés serving light meals and beverages with a maximum capacity of 52 persons (including the staff). According to the applicants, loading/unloading of goods and supplies would take place on either Second Street or Third Street, both of which are within 50m distance from David Lane, and would be delivered to the Premises by staff (**Plan A-2**). The operation hours of

the proposed eating place is from 8:00a.m. to 11:00p.m. everyday including public holidays. The applicants indicated that there will be no outdoor seating accommodation nor any kind of outdoor activities. The layout plans of the proposed eating place submitted by the applicants are at **Drawings A-1 and A-2**.

1.3 In support of the application, the applicants submitted the following documents:

- (a) Application Form received on 25.11.2022 (Appendix I)
- (b) Planning Statement received on 25.11.2022 (Appendix Ia)
- (c) Further Information (FI) received on 30.12.2022 (Appendix Ib)
providing responses to departmental comments[#]

[#]accepted and exempted from publication and recounting requirement

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in the planning statement and FI at **Appendices Ia and Ib** respectively. They are summarised as follows:

- (a) The Premises are situated in an area predominantly characterised by low-rise to high-rise residential buildings with commercial uses including eating places on the lower floors. Given that the scale and nature of the proposed use is similar to other eating places in the area (including the eating place at G/F of 4 David Lane), it is considered fully compatible with its surrounding built environment.
- (b) As there is currently no designated use for the subject “G/IC” zone, the proposed temporary use is considered appropriate and will provide flexibility in case of changing circumstances in the future.
- (c) It would be a waste of scarce land resources to leave the Premises vacant. The Premises could be utilised effectively and efficiently to provide essential food and beverage services to local residents and visitors.
- (d) The proposed use provides the opportunity to refurbish the Premises, including repainting of external walls and furnishing of ground floor units, which would improve street-level environment and provide enjoyable gathering space for local residents and visitors.
- (e) The proposed use will not generate adverse pedestrian and vehicular traffic impacts, noise nuisance, or other environmental impacts to the residential neighbourhood.
- (f) The proposed use will not generate adverse drainage and sewerage impacts since it is confined to existing buildings which have been served by proper drainage and sewerage connection.
- (g) Approval of the current application would be in line with the previous decision of the Metro Planning Committee (the Committee) on approving two similar planning applications (Nos. A/H3/431 and A/H3/443) for temporary eating place use within the same “G/IC” zone.

- (h) The application is in line with the Town Planning Board Guidelines No. 16.

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

The applicants are one of the “current land owners”. In respect of the other “current land owners”, the applicants have 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 to the relevant land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Application for Development/Redevelopment within “G/IC” zone for uses other than G/IC uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No.16) is relevant to this application. Relevant extract of the main planning criteria is attached at **Appendix II**.

5. Background

- 5.1 The two existing 2-storey domestic buildings at 1-2 David Lane, where the Premises are located, were constructed in 1950 and were zoned “Government Reservation” (“G”) on the first statutory plan covering the Sai Ying Pun & Sheung Wan area published on 20.3.1970.
- 5.2 On 13.9.1985, the aforesaid “G” zone was rezoned to “G/IC” on the draft Sai Ying Pun and Sheung Wan OZP No. S/H3/1. On 7.5.2010, a maximum building height restriction of 2 storeys was imposed on the subject “G/IC” on the draft Sai Ying Pun and Sheung Wan OZP No. S/H3/24.

6. Previous Application

There is no previous application at the Premises.

7. Similar Applications

There are two similar applications (Nos. A/H3/431 and A/H3/443¹) for eating place use within the subject “G/IC” zone (**Plan A-1**) which were approved with conditions on a temporary basis by the Committee on 12.8.2016 and 9.7.2021 respectively. Details of the similar applications are at **Appendix III**.

¹ Planning Application No. A/H3/443 is the renewal of planning approval for temporary eating place for a period of 5 years under Planning Application No. A/H3/431.

8. The Premises and its Surrounding (Plans A-2 to A-4)

8.1 The Premises:

- (a) are located on the G/F of two adjoining 2-storey tenement buildings which were constructed in 1950. They comprise two G/F units which are currently vacant; and
- (b) have direct frontage and access to David Lane. There is a separate staircase leading to the domestic units on 1/F of the buildings from David Lane. David Lane is a pedestrian alleyway which connects 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 “Residential (Group A)8” (“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 is Centre Street Sitting-out Area, which is within the same “G/IC” zone;
- (c) to the immediate west are two 2-storey tenement buildings at 3-4 David Lane and to the further 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 are well served by public transport, including Mass Transit Railway (MTR) and public light buses. The Premises are 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 Apart from the government departments set out in paragraph 10.2 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV** and **VI** respectively.
- 10.2 The following government departments have the comments on the application.

Land Administration

- 10.2.1 Comments of the Chief Estate Surveyor/Acquisition, Lands Department (CES/A, LandsD):

According to LandsD's record, there is no plan to develop/resume the private lots, where the subject premises situate, for open space or G/IC development.

Fire Safety

- 10.2.2 Comments of the Director of Fire Services (D of FS):

- (a) No in-principle objection to the application subject to fire service installations and equipment being provided to the satisfaction of the Fire Services Department.
- (b) Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans.

11. Public Comments Received During Statutory Publication Period

On 2.12.2022, the application was published for public inspection. During the first three weeks of the statutory publication period, which ended on 23.12.2022, a total of 8 public comments, including 7 supporting and one objecting comment, were received from the Incorporated Owners of a nearby residential development and individuals (**Appendix V**). Their views are summarised below:

Supportive views

- (a) the proposed eating place can provide an additional dining option for the locals;
- (b) the proposed eating place can enhance the vibrancy and is compatible with the character of the surrounding area;
- (c) the Premises are at a convenient location with nice environment; and

Opposing views

- (d) the Premises are located in a residential area. The proposed use will pose adverse environmental impacts, such as cooking fume, odour, hygiene,

waste water, as well as fire safety concerns and noise nuisance to the surrounding areas.

12. Planning Considerations and Assessments

- 12.1 The applicants seek planning permission for proposed temporary eating place at the Premises which are located within the “G/IC” zone on the OZP. Whilst the proposed use is not entirely in line with the planning intention of the “G/IC” zone, there is currently no designated GIC use for the subject “G/IC” zone. CES/A, LandsD advises that there is no plan to develop/resume the private lots, where the Premises situate, for GIC or open space development. Besides, the proposed temporary eating place merely involves a change of use within existing buildings and could facilitate better utilisation of land resources. In this regard, the proposed use of the ground floor units of the subject residential buildings as temporary eating place would unlikely frustrate the planning intention of the “G/IC” zone in the long run.
- 12.2 The Premises, with a total floor area of about 110.6m², are currently vacant. The Premises are surrounded by high-rise residential buildings with commercial uses including eating places on the lower floors. The proposed eating place would not result in land use incompatibility with the surrounding area and developments. Besides, separate accesses will be provided for the proposed eating place on the ground floor (**Drawing A-2** and **Plan A-2**), thus avoiding nuisance to the residents on the upper floor of the buildings.
- 12.3 In view of its small scale and nature of operation, the proposed eating place is not anticipated to cause significant adverse traffic, drainage, sewerage and fire safety impacts on the surrounding areas. Potential environmental nuisances such as noise, cooking fume and hygiene could be controlled under the relevant legislations. Concerned government departments, including Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Hong Kong & Islands, Drainage Services Department and D of FS have no objection to or adverse comments on the application. Relevant approval conditions on fire safety aspect are suggested to be imposed as in paragraphs 13.2(a) and (b) below. Relevant advisory clauses relating to potential environmental nuisances and traffic impact are also suggested.
- 12.4 In connection with the above, the proposal generally complies with the TPB Guidelines for ‘Application for Development/Redevelopment within “G/IC” Zone for Uses other than Government, Institution or Community Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No.16). Besides, there are two similar applications (Nos. A/H3/431 and A/H3/443) for the same eating place use at the adjacent building on G/F of 4 David Lane which were approved by the Committee on a temporary basis of 5 years on 12.8.2016 and 9.7.2021 respectively. The planning circumstances are similar to the approved applications, and approval of the current application is generally consistent with the Committee’s previous decisions.
- 12.5 Regarding the public comments on the possible adverse impacts on environmental, hygiene, fire safety and noise aspects mentioned in paragraph 11 above, the planning assessments above and departmental comments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11 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 until 13.1.2028. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission of fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.7.2023;
- (b) in relation to (a) above, the implementation of the fire services installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.10.2023; and
- (c) if any of the above planning conditions (a) or (b) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

The recommended advisory clauses are at **Appendix VI**.

- 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.
- 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

Appendix I	Application Form received on 25.11.2022
Appendix Ia	Planning Statement received on 25.11.2022
Appendix Ib	Further Information received on 30.12.2022

Appendix II	Extract of TPB PG-No. 16
Appendix III	Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Public Comments
Appendix VI	Recommended Advisory Clauses
Drawings A-1 and A-2	Floor Plans
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3 and A-4	Site Photos

**PLANNING DEPARTMENT
JANUARY 2023**