

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/H9/84

- Applicant** : CHAN Woon Man represented by HUI Wah Kui
- Site** : Ah Kung Ngam Lot No. 27 S. A, 27 A Kung Ngam Village Road, Shau Kei Wan, Hong Kong
- Site Area** : About 74.8m²
- Lease** : Ah Kung Ngam Lot No. 27 S. A
- held under a Government Lease for a term of 999 years commencing on 1.1.1894
 - virtually unrestricted except non-offensive trades clause
- Plan** : Approved Shau Kei Wan Outline Zoning Plan (OZP) No. S/H9/18 (at the time of submission)
- Draft Shau Kei Wan OZP No. S/H9/19 (currently in force)
- Zoning** : “Open Space” (“O”) (about 91.7% of the Site) and “Other Specified Uses” annotated “Business” (“OU(B)”) (About 8.3% of the Site) (at the time of submission)
- Area shown as ‘Road’ (currently in force)
- Application** : Proposed Eating Place

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed eating place with ancillary office and storage use within a proposed 4-storey building at the application site (the Site). According to the Notes of the OZP, ‘Eating Place’ use requires planning permission from the Town Planning Board (the Board) within area shown as ‘Road’.
- 1.2 The Site, with an area of about 74.8m², is located at the northern part of A Kung Ngam Village fronting the junction of A Kung Ngam Village Road and A Kung Ngam Village Lane. The Site is currently a vacant land.

- 1.3 The layout of the proposed development is at **Drawing A-1**. The development parameters of the proposed development are as follows.

Site Area	74.8m ²
Non-domestic PR	3.5
Non-domestic Gross Floor Area (GFA)	262.4m ²
No. of Block	1
No. of Storeys	Not more than 4 storeys
BH	12.95m (excluding a stairhood of 2.14m in height)
Site Coverage	92%
Uses of Floors	<u>G/F</u> - Eating place <u>1/F</u> - Food storage <u>2/F</u> - AC plant room and utility storage <u>3/F</u> - Ancillary office and storage
Operation Hours	08:00 – 22:00 daily
Seating Capacity of Eating Place	Maximum 20-25 customers/guests in the same session
Anticipated Completion Time	June 2025

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

- (a) Application Form received on 7.11.2022 **(Appendix I)**
- (b) Planning Statement (PS) received on 7.11.2022 **(Appendix Ia)**
- (c) Further Information (FI) dated 23.2.2023 **(Appendix Ib)**
(exempted from publication and recounting requirements)

- 1.5 At the request of the applicant, the Metro Planning Committee (the Committee) of the Board agreed on 23.12.2022 and 21.4.2023 to defer making a decision on the application for a total period of four months in order to allow sufficient time for the applicant for preparation of FI to address departmental comments.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the PS and FI. They are summarised as follows:

- (a) although the Site and its adjacent area are previously zoned “O”, the site condition still remains as status quo for years, which proves that it would not be feasible and cost effective for open space development.
- (b) the proposed development is compatible with surrounding environment and is considered sustainable;
- (c) the proposed eating place would serve the needs of the local residents and the workers of the industrial/office buildings;
- (d) the proposed development will comply with the lease conditions of the subject lot and the prevailing building regulations of the Buildings Department;
- (e) the proposed development is a small scale development which will not cause adverse traffic and sewerage impact on the surrounding areas. The ancillary office is solely for supporting the operation of the eating place and for handling take-away and delivery orders from customers during operation hours; and
- (f) the layout design and the intended uses of the proposed development have been modified to address the departmental concerns on the rejection of the previous application. In particular, an area at the northern portion of the Site is designated as non-building area for future road widening¹ (**Drawings A-1 to A-2**), which may be implemented by way of resumption under the Roads (Works, Use and Compensation) Ordinance.

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. **Background**

- 4.1 The Site was previously zoned “O” with a minor portion encroaching “OU(B)” zone on the approved Shau Kei Wan OZP No. S/H9/18 at the time of submission of the application on 7.11.2022. The application was deferred twice as requested by the applicant to allow time to prepare FI to address departments’ concerns.
- 4.2 As set out in various Policy Addresses in recent years, the Government has adopted a multi-pronged approach to build up land reserve with a view to meeting the housing and other development needs. A site at A Kung Ngam Village has been identified for development of public housing by the Hong Kong Housing Authority (Light blue pecked line in **Plan A-2**).
- 4.3 An Engineering Feasibility Study (EFS) has been conducted by the Civil Engineering and Development Department (CEDD) to confirm the technical feasibility of the proposed public housing development. The technical

¹ The concerned area falls within an area shown as ‘Road’ on the draft Shau Kei Wan Outline Development Plan No. D/H9/1A.

assessments under the EFS have demonstrated no insurmountable technical problems arising from the development proposals.

- 4.4 The Site formed part of the EFS. Under the EFS, road upgrading works were recommended for emergency vehicle access and circulation to the future public housing development (Orange pecked line in **Plan A-2**).
- 4.5 On 9.6.2023, the proposed amendments to the approved Shau Kei Wan OZP No. S/H9/18 was considered and agreed by the Committee. An area covering the Site was rezoned from “O” and “OU(B)” to an area shown as ‘Road’ to facilitate a proposed public housing development and associated road works (**Plan A-2**). The draft Shau Kei Wan OZP No. S/H9/19 incorporating the proposed amendments was gazetted on 23.6.2023. It is anticipated that the proposed public housing development will be completed in 2032 (Phase 1) and 2037 (Phase 2) (**Plan A-2**).

5. Previous Applications

- 5.1 The Site is the subject of two previous planning applications (Nos. A/H9/34 and 61) for industrial development and religious institution submitted by the same applicant, which were both rejected by the Committee/the Board in 1991 and 2005 respectively (**Plan A-1**).
- 5.2 Application No. A/H9/34 for industrial development of a proposed 6-storey building was submitted when the Site was zoned “Industrial” and an area shown as ‘Road’. It was rejected by the Committee on 19.7.1991 on the grounds that the proposal would frustrate the future road work and it would worsen the traffic condition on the existing substandard access road to the north of the Site.
- 5.3 Application Nos. A/H9/61 for proposed Religious Institution – Buddhist Hall with Ancillary Office and Quarters of a proposed 6-storey building was submitted when the Site was zoned “O” and “OU(B)”. It was rejected by the Committee on 24.6.2005 and by the Board on 21.10.2005 on review, mainly on the grounds that the proposed Buddhist hall was not in line with the planning intention of the “O” zone and it was technically unacceptable as it encroached upon an access road to the eastern part of the A Kung Ngam Industrial Area and its design could not meet the relevant building requirements.

6. Similar Application

There is no similar application for eating place use within area shown as ‘Road’ in the Shau Kei Wan OZP area.

7. The Site and Its Surrounding Areas (Plans A-1 to A-4)

- 7.1 The Site is:

- (a) located at the northern part of A Kung Ngam Village fronting the junction of A Kung Ngam Village Road and A Kung Ngam Village Lane; and
- (b) currently a vacant land.

7.2 The surrounding areas have the following characteristics:

- (a) to its east are temporary squatter structures of the A Kung Ngam Village, temple and industrial buildings;
- (b) to its south is an existing industrial building, namely Manson Industrial Building;
- (c) to its west are village houses of the A Kung Ngam Village and to its further west across A Kung Ngam Village Road is Hong Kong Sanatorium & Hospital Eastern Medical Centre; and
- (d) to its north across A Kung Ngam Village Lane is a commercial building, namely Hang Tung Resources Centre and to the further north is Island Eastern Corridor.

8. Planning Intention

The area shown as 'Road' is intended for road use.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Hong Kong East, Lands Department (DLO/HKE, LandsD):

- (a) the Site involves a private lot (namely Section A of Ah Kung Ngam Lot No. 27) (the Lot). The Lot is held under a Government Lease for a term of 999 years commencing on 1.1.1894;
- (b) the Government Lease governing the Lot is virtually unrestricted except non-offensive trades clause. The proposed uses, particularly "eating place", contravene the non-offensive trades restriction under lease. ;
- (c) the site area stated in the application form, i.e. 74.8m² (about), has not been checked. The applicant should ensure that the proposed development is entirely within the Lot and would not

encroach onto the adjoining Government land. The applicant is advised to refer to LandsD LAO PN Issue Nos. 4/2008 and 1/2017; and

- (d) paragraph 5.3 of the PS mentions about the non-building area designated for future road widening which may be implemented by way of resumption under the Roads (Works, Use and Compensation) Ordinance. While this is subject to the relevant department's comments, in the absence of any details, he would reserve his comments at this juncture.

Fire Safety

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

- (a) no objection in principle to the application subject to water supplies for fire fighting and fire service installations being provided to the satisfaction of the D of FS. Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans; and
- (b) the applicant is advised to observe the requirements of emergency vehicular access (EVA) as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011, which is administered by the Buildings Department.

Buildings Matters

9.1.3 Comments of the Chief Building Surveyor/Hong Kong East and Heritage, Buildings Department (CBS/HKE&H, BD):

- (a) the proposed building used for the purpose of eating place/food storage and only one required staircase is not acceptable as it would contravene the provision under regulation 41(1) of the Building (Planning) Regulation (B(P)R) and Clause B6.1 of the Code of Practice for Fire Safety in Buildings 2011. The applicant's attention is drawn to regulation 41(1) of the B(P)R and Clause B6.1 of the Code of Practice for Fire Safety in Buildings 2011, which states "For building with only one required staircase, no room or storey of the building may be used for any occupancy other than domestic or offices, except the ground storey may be used for the purpose of a shop or carparking space...";
- (b) access and facilities for persons with a disability in compliance with regulation 72 of B(P)R and Design Manual: Barrier Free Access 2008 should be provided;
- (c) detailed comments under Buildings Ordinance (BO) will be made at building plan submission stage; and

(d) other detailed comments are at **Appendix II**.

Public Housing Development at A Kung Ngam Village

9.1.4 Comments of the Director of Housing (D of Housing):

the proposed eating place is located within an area shown as 'Road' on the OZP. Although the Site is outside the proposed public housing site at A Kung Ngam Village, the area concerned would serve as an access road leading to the proposed public housing site and Manson Industrial Building. The proposed road works are designed and carried out by CEDD. If planning application approval would adversely affect the associated road works and public housing development programme, he does not support the subject planning application.

9.1.5 Comments of the Project Manager (South), CEDD (PM(S), CEDD)

the Site will be in conflict with the road works in associated with the proposed public housing development at A Kung Ngam Village and will be subject to land resumption. Relevant road gazettal under the Roads (Works, Use and Compensation) Ordinance (Cap. 370) is scheduled for Q3 2023. The approval of the application would adversely affect the associated road works and public housing development programme. As such, PM(S), CEDD does not support the application.

Traffic Aspect

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

no objection to the application from traffic engineering viewpoint. ***However,*** CEDD is planning for a site formation for the proposed public housing development at A Kung Ngam Village. The Site may be in conflict with the proposed road works under the public housing development. CEDD's comments are relevant.

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

- (a) no comment on the application from regional traffic police perspective at this stage; and
- (b) it is advised that the proposal should not cause adverse traffic obstruction in or beyond the site of works and each Temporary Traffic Arrangement involving works on footpath and/or carriageway, if any, has to be submitted to Police (Road Management Office) for detailed comment prior its implementation.

Environment Aspect

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

- (a) no objection to the application from environmental planning perspective;
- (b) the applicant has confirmed in the FI that air-conditioners will be provided for the proposed eating place and it will not rely on openable windows for ventilation;
- (c) to the east of the Site, there is an existing temple close to the Site. The applicant should be able to select a proper location for fresh air intakes of the air conditioning system during detailed design stage to locate them away from the façade facing the temple; and
- (d) other detailed comments are at **Appendix II**.

Sewerage Aspect

9.1.9 Comments of the Chief Engineer/Hong Kong & Islands, DSD (CE/HK&I, DSD):

- (a) EPD is the planning authority of sewerage infrastructure and they should be consulted on the sewerage aspect; and
- (b) subject to the view of EPD, submission of sewerage impact assessment report may be required to support the proposed development.

Urban Design and Visual Aspect

9.1.10 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) the Site is located within a cluster of 1 to 2-storey squatter settlements of A Kung Ngam Village (up to about 11mPD) to its immediate west, temporary structures (ranging from about 10 to 20mPD) to its east, as well as industrial and commercial developments (up to about 62mPD) to its immediate south, north and east; and
- (b) judging from the proposal, the proposed development with a BH of about 12.95m in height is unlikely to induce significant visual impact to the surroundings.

Landscape Aspect

9.1.11 Comments of the CTP/UD&L, PlanD:

- (a) no adverse comment on the application;
- (b) based on aerial photo of 2022, the Site is situated in an area of

city grid mixed urban landscape character surrounded by existing industrial buildings and road. The proposed development involved a 4-storey building for eating place, which is considered not incompatible with the landscape character of its surroundings; and

- (c) no significant landscape resource/existing tree is found within the Site. Significant adverse landscape impact arising from the proposed development is not anticipated.

Others

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

in accordance with the Food Business Regulation, Cap 132X, any person who intends to prepare and/or manufacture food for sale for human consumption or to sell restricted foods at any premises must obtain a licence/permit relevant to the type of the proposed business before commencement of such business. Any person found operating an unlicensed premises and/or violating the relevant provisions in the legislation will be liable to prosecution.

9.2 The following Government departments have no comment on the application:

- (a) Chief Architect/Central Management Division 2, Architectural Services Department (CA/CMD2, ArchSD);
- (b) Chief Highway Engineer/Hong Kong, Highways Department (CHE/HK, HyD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Head of the Geotechnical Engineering Office, CEDD (H(GEO), CEDD);
- (e) District Officer (Eastern), Home Affairs Department (DO(E), HAD);
- (f) Director of Electrical and Mechanical Services (DEMS); and
- (g) Director of Leisure and Cultural Services (DLCS).

10. Public Comments Received During Statutory Publication Period

- 10.1 On 15.11.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 6.12.2022, 44 public comments were received. Out of the public comments, 42 public comments object to the application, 1 comment supports the application and 1 comment provides views on the application. The whole set of public comments have been deposited at the meeting for Members' inspection. Samples of the public comments are attached at **Appendix III**.

Objecting comments

- 10.2 The objecting comments were submitted by individuals, the Incorporated

Owners of Manson Industrial Building and villagers of A Kung Ngam Village.
The major views of the public comments are summarised as follows:

- (a) The Site is located in a residential area instead of a tourist attraction. The proposed eating place use will pose potential environmental hygiene problems, fire risk and nuisance to the surrounding areas.
- (b) There is a lack of physical segregation between the proposed eating place and the village, which causes security concern.
- (c) The Site is the only access to the nearby buildings. The proposed eating place will lead to traffic obstruction due to increase both vehicular and pedestrian traffic and illegal parking.

Supporting comment

- 10.3 The supporting comment with no grounds was submitted by a villager of A Kung Ngam Village, however he indicated that the proposed structure should be a one-storey building regarding the feng shui issue.

Providing views

- 10.4 An individual indicated that potential environmental hygiene to the surrounding areas should be assessed, as food waste generated from the restaurant may overload the existing refuse collection point of A Kung Ngam Village.

11. Planning Considerations and Assessments

- 11.1 The application is to seek planning permission for proposed eating place within a proposed 4-storey building on an area shown as 'Road' on the OZP. The Site was zoned "O" and "OU(B)" on the OZP at the time of submission and was then rezoned to an area shown as 'Road' on the OZP currently in force. While the Site is located in proximity to the proposed public housing development at A Kung Ngam Village, the planned road area in which the Site falling within is intended for the road upgrading works for emergency vehicle access to the proposed public housing development. The approval of the application will jeopardise the planned road works and undermine the implementation of the proposed public housing development. In this connection, PM(S) of CEDD and D of Housing do not support the application due to the conflict between the proposed development and the road works in associated with the public housing development at A Kung Ngam Village. Approval of the application would adversely affect the associated road works and public housing development programme.
- 11.2 While other relevant Government departments, including DLO/HKE of LandsD, DLCS, D of FS, *C for T*, C of P, DEP, CE/HK&I of DSD, DFEH, DO(E) of HAD, CA/CMD2 of ArchSD, CHE/HK of HyD, CE/C of WSD, H(GEO) of CEDD and DEMS have no objection to or no adverse comment on the application, CBS/HKE&H, BD considers the proposed building use for the purpose of eating place/food storage and only one required staircase is not

acceptable as it would contravene the provision under regulation 41(1) of the B(P)R and Clause B6.1 of the Code of Practice for Fire Safety in Buildings 2011. Detailed building design for compliance of BO will be checked at building plan submission stage.

- 11.3 The Site was the subject of two previous applications for industrial development and proposed Religious Institution – Buddhist Hall with Ancillary Office and Quarters respectively submitted by the same applicant but they were rejected by the Committee/the Board in 1991 and 2005 respectively. As the zoning of the Site and the applied uses under the previous applications are different from those in the current proposal, the planning considerations for the previous applications are not relevant.
- 11.4 There are 44 public comments on the application received. Out of these, 42 comments object to the application mainly on the grounds that the proposed eating place use will pose potential environmental hygiene, security, fire and traffic issues to the surrounding areas of the Site. Paragraphs 10 and 11.1 to 11.3 above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department does not support the application for the following reason:

the proposed eating place encroaches onto the planned road area for access and circulation to the proposed public housing development at A Kung Ngam Village, which would undermine the implementation of the proposed public housing development and its associated road works.

- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 14.7.2027, 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 also suggested for Members' reference:

Approval condition

- (a) the provision of water supplies for fire fighting and 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 IV**.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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.

Attachments

Appendix I	Application Form received on 7.11.2022
Appendix Ia	Planning Statement
Appendix Ib	Further Information dated 23.2.2023
Appendix II	Detailed comments from Government departments
Appendix III	Samples of public comments
Appendix IV	Recommended advisory clauses
Drawings A-1 to A-2	Plans submitted by the applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plans A-3 to A-4	Site photos

**PLANNING DEPARTMENT
JULY 2023**