

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K1/261

<u>Applicant</u>	China Enviro Enterprises Limited represented by Fotton Surveyors Limited
<u>Premises</u>	B/F (Portion) and G/F (Portion), Hong Kong Scout Centre, 8 Austin Road, Tsim Sha Tsui, Kowloon
<u>Total Floor Area</u>	1,977m ² (about)
<u>Lease</u>	Kowloon Inland Lot (KIL) 10973 commencing from 9.1.1990 to 30.6.2047
<u>Plan</u>	Approved Tsim Sha Tsui Outline Zoning Plan (OZP) No. S/K1/28
<u>Zoning</u>	“Government, Institution or Community” (“G/IC”) [Maximum building height (BH) of 90mPD or the height of the existing building, whichever is the greater.]
<u>Application</u>	Renewal of Planning Approval for Temporary Eating Place (Restaurant) for a Period of Two Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary eating place (restaurant) at B/F (Portion) and G/F (Portion) of the Hong Kong Scout Centre (HKSC) at 8 Austin Road, Tsim Sha Tsui, Kowloon (the Premises) (**Plan A-1**) for a period of two years from 10.12.2021 to 9.12.2023. The HKSC falls within an area zoned “G/IC” on the approved Tsim Sha Tsui OZP No. S/K1/28 (**Plans A-1 and A-2**). According to the Notes of the OZP for the “G/IC” zone, ‘Eating Place’ except canteen and cooked food centre is a Column 2 use, which requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises is the subject of two previous applications (Nos. A/K1/255 and A/K1/259). The latest application No. A/K1/259 was submitted by the Scout Association of Hong Kong (SAHK) for temporary ‘Eating Place (Restaurant)’ which was approved upon review by the Board on 13.3.2020 for a period of two years, instead of three years sought, until 9.12.2021¹. A shorter temporary

¹ MPC Paper No. A/K1/259, TPB Paper No. 10627 and the respective meeting minutes are available on the following TPB websites:

- (i) MPC Paper No. A/K1/259 and meeting minutes:
https://www.info.gov.hk/tpb/en/meetings/MPC/Agenda/637_mpc_agenda.html and
https://www.info.gov.hk/tpb/en/meetings/MPC/Minutes/m637mpc_e.pdf
- (ii) TPB Paper No. 1062 and meeting minutes:
https://www.info.gov.hk/tpb/tc/meetings/TPB/Agenda/1218_tpb_agenda.html and
https://www.info.gov.hk/tpb/en/meetings/TPB/Minutes/m1218tpb_e.pdf

approval was granted in order to allow time for the applicant to explore suitable GIC uses at the Premises. The Premises is currently used as a restaurant.

- 1.3 The Premises comprises the entrance at G/F and the restaurant at B/F (**Drawings A-1 to A-4**). The total gross floor area (GFA) is about 1,977m² (including 52m² at G/F and 1,925m² at B/F). The main pedestrian access to the Premises is via the staircases at G/F fronting Austin Road while the Premises could also be accessed via two lifts (serving between B/F and 5/F) at the G/F lobby of the HKSC (**Drawings A-1 and A-2**).
- 1.4 According to the applicant, the scale and operation of the temporary eating place (restaurant) under the current application is the same as the previously approved scheme under application No. A/K1/259. With a seating capacity of 854 seats, the operation hour of the restaurant at the Premises is from 7:00 a.m. to 11:30 p.m. daily. 10 car parking spaces are provided in the HKSC, which is accessible via Scout Path off Austin Road (**Drawing A-1**). Two loading/unloading bays are located at B/F of the HKSC.
- 1.5 In support of the application, the applicant has submitted the application form and supplementary planning statement on 8.9.2021 (**Appendices I and Ia**). The floor and layout plans of the Premises submitted by the applicant are shown in **Drawings A-2 and A-4**.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application as set out in **Appendix Ia** are summarised as follows:

Rare alternative use at basement

- (a) The subject premises located in the basement may not be preferable for social welfare facilities. Despite SAHK's attempts to invite compatible GIC users, suitable alternative GIC users are yet to be identified. The existing restaurant is well received by the public in the surrounding residential areas. Without the existing restaurant, the Premises would continue to be under utilized.

Full utilization of basement for scout members and general public

- (b) The Premises is originally designed as a canteen for Scout members. The existing restaurant serves wider customer scope in G/IC context. Scout members can enjoy better service offered in the existing restaurant compared to canteen. On the other hand, the existing land resource could be better utilized and does not contravene the planning principle of "G/IC" zone for serving the neighbourhood, particularly for the local elderly residents.

Respect small and medium enterprise (SME) social responsibility

- (c) The existing restaurant is a SME and keeps local employment. About 50 staff (mostly aged over 40) will lose their jobs if the existing restaurant closes down and their families will be seriously affected. The applicant may not be able to restart again given that the heavy capital investments involved in a new location under the current difficult economic climate.

- (d) The restaurant is serving both the Scout members and the local residents, and will continue to be a common venue for social gathering for the local elderly. Closing down is much more simple than to keep its continuity in providing a cheap but quality eating service to the elderly.

No anticipated adverse technical impacts

- (e) The application is to allow continuity of the approved temporary restaurant, and there is no change on the scale and operation of the Premise as compared with the previously approved application. No adverse externalities and impacts such as traffic and sewage are anticipated.

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

The applicant is not a “current land owner” but has 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. 31) by obtaining owner’s consent. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

4.1 Town Planning Board Guidelines No. 16 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. The relevant extract of the Guidelines are as follows:

- (a) the proposed development should not jeopardise the provision of GIC facilities and the concerned Government departments have no objection to releasing a particular “G/IC” site or a certain part of it for non-GIC uses;
- (b) the proposed development should not adversely affect the normal operation of the existing GIC facilities within the “G/IC” site;
- (c) the proposed development should be compatible in land-use terms with the GIC uses on the site and the surrounding areas;
- (d) the proposed development should be sustainable in terms of the capacities of existing and planned infrastructure;
- (e) there should be adequate provision of parking and loading/unloading facilities to serve the development in accordance with Hong Kong Planning Standards and Guidelines (HKPSG) and to the satisfaction of Transport Department; and
- (f) the proposed development should not cause or be susceptible to adverse environmental impacts.

4.2 As the current application is for renewal of planning approval, planning considerations and assessments are made mainly based on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for

Temporary Use or Development' (TPB PG-No. 34D). The relevant assessment criteria are summarised 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 for 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 departments within the specified time limits;
 - (d) whether the approval period sought is reasonable; and
 - (e) any other relevant considerations.
- 4.3 It is also indicated in TPB PG-No. 34D that under normal circumstances, the approval period for renewal should not be longer than the original validity period of the temporary approval. A streamlined approach is adopted and there is no need to undertake new technical assessments so long as there is no major change in planning circumstances.

5. Background

- 5.1 The lot was granted to the SAHK in 1990 for the purpose of the Scout Headquarters, bus terminus, telephone exchange and vehicle park. According to the Conditions of Grant, the HKSC should be 'a headquarters for the SAHK including assembly hall, gymnasium, offices, scout shop, hostel, dormitory, canteen, staff quarters and such other ancillary accommodation and facilities as shall be approved by the Director of Social Welfare' (now the Secretary for Home Affairs).
- 5.2 According to the building plans approved in March 1993 and the Occupation Permit issued by the Building Authority on 23.6.1993 (**Appendix II**), the Premises was approved for the use of scout canteen.

6. Previous Applications

- 6.1 The Premises is the subject of two previous applications (Nos. A/K1/255 and A/K1/259) for temporary eating place (restaurant) use submitted by different applicant, i.e. SAHK. Application No. A/K1/255 was approved with conditions on fire service requirements by the Metro Planning Committee (the Committee) on 9.12.2016 for a period of three years, instead of six years sought, in order to review the possibility of accommodating other GIC uses at the subject premises in the future. The major grounds of approval were that the temporary eating

place was not incompatible with the surrounding area and no adverse impact was anticipated. The approval conditions have been complied with.

- 6.2 Application No. A/K1/259 was approved by the Committee on 18.10.2019 for a period of one year, instead of three years sought, in order to encourage the applicant to explore the possibility of accommodating other GIC uses at the Premises. The Committee also agreed to advise the applicant that the renewal was the last renewal and no further renewal of approval would be given. On 21.11.2019, the applicant applied, under s.17(1) of the Ordinance, for a review of the Committee's decision on the approval period of the application. Upon review by the Board on 13.3.2020, an approval period of two years (from 10.12.2019 to 9.12.2021) was granted on grounds that the temporary eating place should be given with sympathetic consideration for a slightly longer approval period in view of the enormous hardship faced by businesses, particularly the challenges brought by the coronavirus outbreak and the lead time required for turning the Premises into GIC use.

7. Similar Application

There is one similar application for restaurant (No. A/K1/174) within "G/IC" zone in Tsim Sha Tsui OZP. The application for restaurant with outdoor café for the Tsim Sha Tsui Promenade on government land adjoining New World Centre (**Plan A-1**) was rejected by the Committee on 2.11.2001 on the grounds that the proposed development was not in line with the planning intention of the application site which was zoned "G/IC"; and there was insufficient information in the submission to demonstrate that the proposed development would integrate with the Tsim Sha Tsui Promenade Beautification Projection undertaken by the Government for this promenade. On 4.10.2002, the Board approved the application upon review mainly on the consideration that interfacing issues with the promenade could be resolved and approval conditions on submission of the design details of proposed restaurant and ancillary facilities, and submission and implementation of landscaping proposal were imposed. The application site was subsequently rezoned from "G/IC" to "Open Space" on the OZP.

8. The Premises and Its Surrounding Areas (Plans A-1 and A-2, Site Photos on Plans A-3 and A-4)

- 8.1 The Premises is:

- (a) located at part of B/F with an entrance at G/F of the 28-storey HKSC;
- (b) currently used as a restaurant; and
- (c) accessible via the entrance at G/F of the HKSC fronting Austin Road (**Plans A-3 and A-4**), or via the lifts at the G/F carpark lobby of the HKSC.

- 8.2 Based on recent site inspection, the current uses within the HKSC are summarized as follows:

Floor	Current Uses
Basement (<i>Application Premises</i> at portion of B/F)	Eating place and loading/unloading area
G/F (<i>Application Premises</i> at portion of G/F)	Reception, lift lobby and staircases to B/F and cross-boundary coach terminus
UG/F	Lounge and banquet hall
1/F to 4/F	Car park
5/F	Car park and telephone exchange
6/F to 7/F	Telephone exchange
8/F	Scout clubhouse with catering facilities, Scout Centre and offices
9/F to 11/F	Scout Centre and offices
12/F	Mechanical rooms
13/F	Offices and staff canteen
14/F to 25/F	Guest rooms

8.3 The surrounding areas have the following characteristics (**Plans A-1 and A-2**):

- (a) surrounded by a mix of residential, commercial, educational and recreational development/uses;
- (b) to the east and south is the Kowloon Park and further east is Tsim Sha Tsui Police Station;
- (c) to the further southeast and southwest are the Kowloon Park Swimming Pool and two schools (i.e. Lai Chack Middle School and Canton Road Government Primary School) respectively; and
- (d) to the north and west is a mix of commercial and residential uses including Victoria Towers, Chong Tak Building and TAL Building.

9. Planning Intention

- 9.1 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.
- 9.2 According to the Explanatory Statement of the OZP, the HKSC is to be developed into a multi-purpose building accommodating a multi-storey car park, telephone exchange and cross-boundary bus terminus, and the Boy Scout Association Headquarters with hostels.

10. Comments from Relevant Government Bureau and Departments

- 10.1 The following Government bureau and departments (B/Ds) have been consulted and their comments are summarised as follows:

Policy Perspective

10.1.1 Comments of the Secretary for Home Affairs (SHA):

Home Affairs Bureau is the policy bureau supporting the private treaty grant for development of the HKSC. He has no in-principle objection to the application subject to the views of other relevant B/Ds.

Land Administration

10.1.2 Comments of the District Lands Officer/Kowloon West, Lands Department (DLO/KW, LandsD):

- (a) the concerned building falls within KIL 10973 which is held under Conditions of Grant No. 12085 dated 9.1.1990 as varied or modified by a Modification Letter dated 7.4.1995 and a No-objection Letter dated 31.1.1997 (hereafter collectively referred to as 'the Conditions'). Special Condition (S.C.) No. (6) of the Conditions stipulates that the Grantee of the lot shall not erect or maintain on the lot any building or buildings other than the building or buildings comprising:
 - (i) a headquarters for the SAHK including assembly hall, gymnasium, offices, scout shop, hostel, dormitory, canteen, staff quarters and such other ancillary accommodation and facilities as shall be approved by Director of Social Welfare (hereafter referred to as 'the Scout Headquarters');
 - (ii) a bus terminus having a GFA of not less than 2,300m²;
 - (iii) a telephone exchange including ancillary offices as shall be approved by the Director of Lands having a GFA of not less than 9,000m²; and
 - (iv) a multi-storey vehicle park.
- (b) S.C. No. (8)(a) of the Conditions also stipulates that the lot or any part thereof or any building or buildings erected or to be erected thereon shall not be used for any purpose other than accommodation for the Scout Headquarters, the Bus Terminus, the Telephone Exchange and the Vehicle Park; and
- (c) after the applicant had obtained the Board's permission for its previous planning application (No. A/K1/255), a temporary waiver to permit restaurant use at the Premises was approved by the LandsD for a fixed term of three years commencing on 1.3.2015 and thereafter quarterly subject to payment of waiver fee. The temporary use for eating place is permitted under the said waiver.

Traffic

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

- (a) he has no comment on the application from the traffic engineering viewpoint;
- (b) it is noted that the application is for the renewal of a previous application No. A/K1/259 and no complaint about traffic caused by operation of the subject eating place has been received so far; and
- (c) according to the HKPSG, 0.5 to 1 car parking space per 200m² GFA of conference and banquet facilities is required. Given that the subject eating place has a GFA of 1,977m², 10 car parking spaces have been provided to fulfil the high-end requirement.

Environment

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

- (a) he has no objection to the application from the environmental perspective;
- (b) based on the information provided by the applicant, it is noted that the application is not expanding the capacity of the existing restaurant and there will be no change from the last approval with the same operation hours and seating capacity. Sewage will be discharged to the same sewerage system as per current configuration; and
- (c) the applicant should ensure compliance with the requirements of relevant pollution control ordinances and guidelines. In particular, the applicant should implement the best practical control measures as set out in the 'Control of Oily Fume and Cooking Odour from Restaurants and Food Business' to minimise the oily fume and cooking odour emission.

Fire Safety

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

he has no in-principle objection to the application provided that the fire service installations and equipment installed thereat are properly maintained.

Other Aspects

10.1.6 Comments of the Director of Social Welfare (DSW):

- (a) the Premises are privately owned by the SAHK with its headquarters and hostels located atop. The existing restaurant has been in operation at the Premises for many years and there is no natural lighting/ventilation in view of the disposition of the Premises; and
- (b) the proposed renewal of planning permission for the temporary eating place (restaurant) is outside the purview of the Social Welfare Department (SWD). That said, should the Board decided to reject the application and SAHK agreed to reserve the Premises for other GIC facilities to serve the community, SWD would like to propose setting up welfare facilities (i.e. Home Care Services (HCS) for Frail Elderly Persons and Community Rehabilitation Day Centre (CRDC)) in the Premises taking into account the welfare services need of the district.

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

- (a) Government Property Administrator;
- (b) Chief Building Surveyor/Kowloon, Buildings Department;
- (c) Chief Highway Engineer/Kowloon, Highways Department;
- (d) Director of Leisure and Cultural Services;
- (e) Chief Engineer/Kowloon, Water Supplies Department;
- (f) Chief Engineer/Mainland South, Drainage Services Department;
- (g) Director of Food, Environment and Hygiene;
- (h) Commissioner of Police; and
- (i) District Officer (Yau Tsim Mong), Home Affairs Department.

11. Public Comments Received During Statutory Publication Period

During the statutory public inspection period, four objecting comments submitted by TST Residents Concern Group, Designing Hong Kong Limited and an individual (two comments submitted by the same individual) were received (**Appendices IIIa to IIId**). One of the comments at **Appendix IIIa** is much related to an enquiry on general information and the Secretariat to the Board has already provided reply to the commenter. The other three public comments at **Appendices IIIb to IIId** mainly expressed objecting views to the application and their major comments are summarised as follows:

- (a) The use of the Premises should be ancillary to the operation of the HKSC. Changing it to restaurant use which is commercial in nature cannot be justified and is not in line with the planning intention of the “G/IC” zone. It is also incompatible with the surrounding area which is predominantly occupied by school and residential developments. Approving the application would set an undesirable precedent.
- (b) There are urgent need of community facilities, such as community hall, to cope with the COVID crisis, and the popular community facilities at Henry Leong Community Centre were requisitioned to serve as COVID testing centre and thus

affecting the locals to use the community facilities in the most deprived Yau Ma Tei district.

- (c) There are deficits of GIC facilities in the area, particularly the elderly and child care facilities, and a lack of space to accommodate additional community facilities. Even if elderly facilities are not suitable, the Premises should be put in other meaningful GIC use to serve the public.
- (d) As a major and leading Non-Government Organisation (NGO) in Hong Kong, SAHK has the duty to seek suitable community facilities to be provided at the Premises. If SAHK cannot identify any community use for the Premises, the Government has the right and duty to take back the Premises that are not being operated in line with the intention of “G/IC” zoning.
- (e) In view of the number of restaurants and shops closing down, there are abundance commercial properties available for restaurant use in the area.

12. Planning Considerations and Assessments

- 12.1 The applicant is the current operator of the subject restaurant instead of the previous applicant, the SAHK. The applicant seeks renewal of planning approval (Application No. A/K1/259) to continue the temporary eating place (restaurant) use at the Premises for a period of two years. The Premises has been granted with planning permission for the subject temporary use for a total of about five years since 9.12.2016. The current application is the same as the previously approved application in terms of use and area and there has been no material change in planning circumstances since the previous temporary approval was granted on 13.3.2020 upon review.
- 12.2 To recap, for the latest approved Application No. A/K1/259, the Committee approved for a period of one year, instead of three years sought, in order to encourage the SAHK to explore the possibility of accommodating other GIC uses at the Premises. The Committee also agreed to advise the SAHK that the renewal was the last renewal and no further renewal of approval would be given. The applicant subsequently applied for a review to request for a longer approval period of the application. Upon review by the Board on 13.3.2020, an approval period of two years (from 10.12.2019 to 9.12.2021) was granted on grounds that the temporary eating place should be given with sympathetic consideration for a slightly longer approval period in view of the enormous hardship faced by businesses, particularly the challenges brought by the coronavirus outbreak and the lead time required for turning the Premises into GIC use. In the deliberation, Members of the Board were generally of the view that despite the Premises being located in a basement level, there was scope to provide other types of GIC facilities or services in the Premise to serve the local community as well as wider district.
- 12.3 Since the approval of the previous application, so far, we are not aware of that SAHK has approached relevant B/Ds in respect of the Board’s concern. While the current application is submitted by the operator of the restaurant, instead of SAHK, there is not much information provided in the submission to address the concerns of the Committee and the Board. As such, it is considered that the

applicant fails to demonstrate that there are no suitable GIC uses for the Premises.

- 12.4 Having considered the location of the Premises, DSW indicates that two welfare facilities (i.e. HCS for Frail Elderly Persons and CRDC) are suitable to be accommodated in the Premises to serve needs of the district. In view of the above, the continuous occupation of the Premises by the restaurant may deprive other GIC uses at the Premises, and thus, jeopardise the provision of GIC facilities to serve the community. In this regard, the proposal renewal is not in line with the TPB PG-No. 16.
- 12.5 Although there has been no material change in planning circumstances since the previous temporary approval was granted and the approval period of two years sought is not longer than the original validity period of the temporary approval, the Board had expressed clear intention that the approval of the previous review application was to allow time required for turning the Premises into GIC uses. The approval of the renewal application for continuing restaurant use within “G/IC” zone will have adverse planning implications as mentioned in paragraph 12.4 above. As such, the proposal renewal is not in line with the TPB PG-No. 34D.
- 12.6 Regarding the public comments received, the planning considerations and assessments in paragraphs 12.1 to 12.5 above and the departmental comments in paragraph 10 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, the Planning Department does not support the application for the following reason:

the applicant fails to demonstrate that there are no suitable GIC uses could be accommodated in the application premises. The proposed continuous use of the Premises for ‘Eating Place (Restaurant)’ within “G/IC” zone would jeopardise the provision of GIC facilities serving the needs of the local residents and/or a wider district.

- 13.2 Alternatively, 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 two years from 10.12.2021 to 9.12.2023.

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

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for the renewal.
- 14.2 Should the Board decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

- 14.3 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.

15. Attachments

Appendix I	Application form
Appendix Ia	Supplementary Planning Statement
Appendix II	Occupation permit of the HKSC
Appendix IIIa to IIId	Public comments
Appendix IV	Advisory clauses
Drawing A-1	Location plan of the Premises
Drawing A-2	Layout plan of the Premises
Drawing A-3	Ground floor plan of the HKSC
Drawing A-4	Basement floor plan of the HKSC
Plan A-1	Location plan
Plan A-2	Site plan
Plans A-3 and A-4	Site photos

**PLANNING DEPARTMENT
OCTOBER 2021**