

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

**APPLICATION NO. A/K1/265**

- Applicant** : The Incorporated Owners of Park Lane Shopper's Boulevard represented by DeSPACE (International) Limited
- Premises** : G/F and 1/F, Park Lane Shopper's Boulevard, 111-139, 143-161 and 165-181 Nathan Road, Tsim Sha Tsui
- Floor Area** : About 7,638m<sup>2</sup>
- Lease** : Kowloon Inland Lot (KIL) No. 10710  
(a) for a term of 75 years renewable for 75 years commencing from 23.2.1983  
(b) restricted for non-industrial use (excluding godown, residential and hotel)  
(c) shall not be used for any purpose other than as shops for the retail sale of goods except with prior written consent of the Director of Lands (D of Lands)
- Plan** : Approved Tsim Sha Tsui (TST) Outline Zoning Plan (OZP) No. S/K1/28
- Zoning** : "Open Space" ("O") and marked with 'Shops Below'
- Application** : Proposed Eating Place (Cafeteria, Coffee Shop and Tea House) and Shop and Services

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed eating place (cafeteria, coffee shop and tea house) and shop and services uses at the existing two-storey shopping arcade, namely Park Lane Shopper's Boulevard (Park Lane), at 111-139, 143-161 and 165-181 Nathan Road, TST (the Premises). The Premises falls within an area zoned "O" and marked with 'Shops Below' on the approved TST OZP No. S/K1/28 (**Plan A-1**). According to the Notes of the OZP for "O" zone, both 'Eating Place' and 'Shop and Services' are Column 2 uses, which require planning permission from the Town Planning Board (the Board). According to the Explanatory Statement (ES) of the OZP, due to the difference in levels between the eastern part of Kowloon Park and Nathan Road, opportunity has been taken to extend the park area over the roofs of the shopping arcade (**Plans A-3 and A-4**).

- 1.2 The general building plans of the shopping arcade were approved with Occupation Permit (OP) issued on 4.11.1985. The shopping arcade has three sections with shopfronts fronting Nathan Road (**Drawings A-2 to A-5**). Its rooftop gardens are assigned to Financial Secretary Incorporated (FSI) under lease, and currently managed and maintained by the Leisure and Cultural Services Department (LCSD) and do not form part of the application (**Plan A-3**). Under the proposed scheme, the additional uses will not affect the existing development parameters.
- 1.3 According to the applicant, the proposed eating place will be exclusively used as cafeteria, coffee shop and tea house, providing light meal and refreshment only with not more than 50% of the premises floor area, and will not involve grilling and deep frying cooking process.
- 1.4 In support of the application, the applicant has submitted the following documents:
- |     |   |                        |
|-----|---|------------------------|
| (a) | Application Form received on 23.5.2022                      | ( <b>Appendix I</b> )  |
| (b) | Supplementary Planning Statement (SPS)                      | ( <b>Appendix Ia</b> ) |
| (c) | Further Information (FI) received on 26.8.2022 <sup>#</sup> | ( <b>Appendix Ib</b> ) |
| (d) | FI received on 5.10.2022 <sup>*</sup>                       | ( <b>Appendix Ic</b> ) |
- Remarks: <sup>#</sup> accepted but not exempted from publication and recounting requirements  
<sup>\*</sup> accepted and exempted from publication and recounting requirements
- 1.5 On 15.7.2022, the Committee agreed to defer making a decision on the application for two months as requested by the applicant.

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

The justifications put forth by the applicant in support of the application are detailed in **Appendices I to Ic**. They can be summarised as follows:

### **Strategic Responses to Socio-economic and Market Changes**

- (a) Many traditional shopping district closed down in recent years due to economic downturn. The proposed conversion is a strategic response to the changing socio-economic circumstances and consumer behaviours, with planning merits such as meeting the local demand for quality dining services, creating local employment opportunities and enhancing flexibility and resilience of the local economy.

### **Land Use Compatibility and Interface with Kowloon Park**

- (b) The proposed uses are compatible with Kowloon Park and the surrounding land uses, and will bring diversity to enhance the level of enjoyment of the park users. Due to the level difference, the commercial activities on lower floors are completely separated from the open space above, such that enjoyment of the open space would not be compromised. The proposed uses also blend in completely with the commercial setting on the other side of Nathan Road.

Improvement to Townscape and In Line with Tourism Policy

- (c) The lack of economic activities and long-idle premises at the heart of the city are undesirable, making a street less attractive and inducing negative image. The proposal is generally in line with the Government's policies on the economy and tourism industry, in that it would help diversify activities and re-inject life and vibrancy to Park Lane, and develop new tourism products with local characteristics.

Environmental and Hygienic Control Mechanism

- (d) The proposed proportion of eating place among the premises floor area would not be more than 50% and is for light meal and refreshment only (i.e. cafeteria, coffee shops and tea house), of which the air quality impacts are expected to be much lower than general restaurant use. The acquisition of liquor licence will be forbidden through lease condition, if appropriate, to eradicate all the legal consumption of alcohol within the Premises.
- (e) All relevant statutory regulations will be followed to mitigate adverse environmental impacts to the surroundings. The activated carbon filter as recommended by the Environmental Protection Department (EPD) and exhaust air purifiers will be installed at each eating places. The usual sewerage management, waste disposal arrangement and pest control practices would continue and be carried out by the management office. Nonetheless, built-in sanitary facilities have been provided within the each shops. The environmental and hygienic control mechanism can be imposed as conditions under lease, Deed of Mutual Covenant (DMC) and house rules of the Incorporated Owners (IO) of Park Lane Shopper's Boulevard.

No Adverse Impacts on the Surroundings

- (f) There are two loading/unloading (L/UL) bays and a taxi pick-up/drop-off point serving Park Lane (**Drawing A-6**). The proposal would not induce adverse impact on traffic and pedestrian networks. The proposed sewer upgrading works will be carefully considered and mitigation measures will be explored to avoid interfering the tree roots of Old and Valuable Trees (OVTs). Comments and permits from LCSD and relevant departments will be sought prior to the commencement of any upgrading works, in accordance with the established mechanism.

Similar Approved Application

- (g) There are other similar application approved within "O" zone in other OZPs, primarily on the considerations that open space provision would not be affected; addressing the changing commercial needs; compatible with the park environment; and in line with planning and policy objectives. Approval of the application will not set any undesirable precedent.

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

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

### **4. Background**

- 4.1 The Premises was originally zoned “Commercial/Residential” (“C/R”) on the TST OZP No. LK 1/40 (gazetted on 18.8.1965). On 2.7.1976, the Premises was rezoned to “O” and marked with ‘Shops Below’ on the TST OZP No. LK 1/56 to provide opportunity to extend the park area over the roofs of three blocks of one to two-storey shops fronting Nathan Road.
- 4.2 According to the lease, the roofs of the Premises were assigned to FSI for open space use. The lease further stipulates that the Premises shall not be used for any purpose other than as shops for the retail sale of goods except with prior written consent of D of Lands.

### **5. Previous Application**

There is no previous application covering the Premises.

### **6. Similar Application**

There is a similar application for commercial uses at TST Promenade within “O” zone on the TST OZP (**Plan A-1**). Application No. A/K1/250 for proposed eating place, shop and services, place of entertainment, place of recreation, sports or culture was approved with conditions by the Committee on 21.8.2015 on the considerations that the proposed development was generally in line with the planning intentions; would not generate significant adverse environmental, drainage and sewerage impacts; and relevant Government departments had no adverse comments on/objection to the application.

### **7. The Premises and its Surrounding Areas (Plans A-1 to A-4)**

7.1 The Premises is:

- (a) an existing two-storey shopping arcade (i.e. Park Lane) completed in 1985, which is divided into three sections and situated at the eastern edge of Kowloon Park with shop frontage along Nathan Road (**Drawing A-1** and **Plan A-2**). Some units are equipped with escalators to provide internal connection;

- (b) elongated in shape with rooftop gardens managed by LCSD as part of the Kowloon Park (**Drawing A-5** and **Plan A-3**). The Premises is currently partly vacant and partly occupied by retail shops (**Plans A-3** and **A-4**); and
- (c) according to the OP issued by the Building Authority on 4.11.1985, the subject building was approved for the following use on various floors:

| Floor | Site A (one-storey) | Sites B, C & D (two-storey) |
|-------|---------------------|-----------------------------|
| G/F   | Shops               | Shops                       |
| 1/F   | -                   | Shops                       |

7.2 The surrounding areas have the following characteristics:

- (a) an intermixed area comprising commercial/residential (C/R) buildings, commercial and hotel developments, government, institution or community (GIC) facilities, and open space;
- (b) to the north is the TST Police Station; to the east is a pedestrian walkway and Nathan Road, to the south is the Kowloon Mosque and Islamic Centre; and to the west is Kowloon Park;
- (c) to the further east across Nathan Road are the Antiquities and Monuments Office, St. Andrew's Church and commercial developments comprising shopping malls, hotels and C/R buildings; and
- (d) well served by various modes of public transport. The MTR TST Station is located about 70m south and 170m northeast of the Premises (**Plan A-2**).

## 8. **Planning Intention**

The planning intention of the "O" zone is primarily for the provision of outdoor public open-air space for active and/or passive recreational uses serving the needs of local residents as well as the general public. The ES of the OZP also indicates that due to the difference in levels between the eastern part of the Kowloon Park and Nathan Road, opportunity has been taken to extend the park area over the roofs of three blocks of one to two-storey shops fronting Nathan Road.

## 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/Kowloon West, Lands Department (DLO/KW, LandsD):

- (a) no objection to the application;

- (b) the Premises falls within KIL No. 10710 (the Lot) which is governed by Conditions of Sale No. 11654 (the Conditions) for a term of 75 years renewable for 75 years commencing from 23.2.1983. According to the Conditions, the Lot is restricted for the purposes of non-industrial use (excluding godown, residential and hotel) purposes and any building(s) erected or to be erected on the Lot or any part(s) of such building(s) shall not be used for any purpose other than as shops for the retail sale of goods except with prior written consent of D of Lands; and
- (c) if the planning application is approved by the Board, the owners of the Lot are required to apply for consent under lease regarding the proposed uses other than shops for the retail sale of goods. Such application, if received, will be considered by LandsD acting in the capacity as a landlord at its sole discretion and the consent, if granted, will be subject to such term and conditions including payment of premium and administrative fee as may be imposed.

9.1.2 Comments of the Government Property Administrator (GPA):

- (a) no comment from property management perspective subject to comments from LCSD;
- (b) the roofs of the Premises have been assigned to FSI under lease and their maintenance have been vested in LCSD; and
- (c) according to the Accommodation Regulations, the user department (i.e. LCSD) is to assume the role of owner for taking up the responsibility to ensure that the Government accommodation and facilities are properly used and maintained safely, efficiently and cost-efficiently for their intended purposes.

Traffic

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

- (a) no in principle objection to the application from traffic engineering viewpoint subject to the incorporation of the following approval condition:  
  
the implementation of traffic control measures as proposed by the applicant to the satisfaction of C for T or of the Board.
- (b) control measures for L/UL, delivery of goods, etc. shall be implemented to minimise the traffic impact to the road network in the vicinity; and
- (c) undertaking letter from the applicant shall be submitted to his office.

## Environment

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

- (a) no objection to the application from environmental perspective;
- (b) having reviewed the information provided and considered the nature of the proposed uses, insurmountable environmental impact arising from the proposed eating place and shop and services is not anticipated;
- (c) the applicant is reminded that the local sewer connection/upgrading/diversion works shall be implemented to the satisfaction of the Drainage Services Department (DSD). DSD's view on the updated SIA should be sought; and
- (d) it is noted that the applicant has committed to carry out manhole survey for the manholes with unknown or doubtful invert level at a later stage and will revise the hydraulic calculation of SIA based on the findings of the manhole survey accordingly. The following approval conditions are recommended should the Board decide to approve the application:
  - (i) the submission of an updated SIA to the satisfaction of DEP or of the Board; and
  - (ii) the implementation of the local sewerage upgrading/sewerage connection works identified in the updated SIA to the satisfaction of the Director of Drainage Services or of the Board.

### 9.1.5 Comments of the Chief Engineer/Mainland South (CE/MS), DSD:

the SIA for the subject application needs to meet the full satisfaction of EPD, the planning authority of sewerage infrastructure. DSD's comments on the SIA submitted by the developer are subject to views and agreement of EPD.

## Building Matters

### 9.1.6 Comments of the Chief Building Surveyor/Kowloon, Buildings Department (CBS/K, BD):

- (a) no in-principle objection to the application;
- (b) all building works should in all aspects comply with the Buildings Ordinance (BO) and its allied regulations; and
- (c) other detailed comments are set out at **Appendix II**.

### Landscape

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

- (a) the Premises is situated in park urban landscape character but surrounded by areas of organic mixed urban landscape character predominated by commercial buildings. The proposed uses are considered not incompatible with the landscape setting in proximity;
- (b) there is no extra floor area proposed and the existing roof gardens above the Premises would not be affected. As no existing tree and landscape resource will be affected and no adverse impact on landscape is anticipated by the proposed uses, she has no comment on the application from landscape planning perspective; and
- (c) the applicant is reminded that approval of the application under s.16 of the Town Planning Ordinance does not imply:
  - (i) approval of tree works such as felling/transplanting or pruning under lease. Applications on tree works should be submitted direct to relevant authorities/Government departments for approval where appropriate; and
  - (ii) approval of the site coverage of greenery requirements under APP PNAP-152 and/or under the lease. The site coverage of greenery calculation should be submitted separately to BD for approval.

### Fire Safety

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

- (a) no objection in principle to the application subject to fire service installations being provided to the satisfaction of his department; and
- (b) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans or referral from licensing authority.

### Others

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

- (a) the application has addressed LCSD's concerns by committing to implement the environmental and hygienic control mechanism as stated in paragraphs 2(d) and (e) above. As such, he has no further comment on the application at this stage but reserves the right to



comment on future details;

- (b) reserves the right to offer comments upon receipt of further proposal that may affect OVTs, including but not limited to the proposal for the locations and positioning of exhaust air outlets;
- (c) it is noted that the Premises is very close to OVTs along Nathan Road. The applicant is reminded that the planning and design of the project must take into account the need to preserve and avoid any damage to OVTs with assigning top priority to preserve OVTs and minimise the adverse impact on tree and root growth; and
- (d) the applicant should be reminded that in accordance with the DEVB TC(W) No. 5/2020, construction works such as excavation, trenching, piling and landfilling, etc. within the tree protection zone (TPZ) of OVTs should be avoided.

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

- (a) no comment on the application provided that there is no adverse impact on both pedestrian and vehicular traffic; and
- (b) if there would be any temporary traffic arrangement plan proposed in the future, further comment from C of P should be sought.

9.1.11 Comments of the Commissioner for Tourism (C for Tourism):

- (a) no objection to the application from tourism angle for diversifying Park Lane into a vibrant cultural and leisure destination for both tourist and local residents;
- (b) the proposal further enriches the tourism appeal of Park Lane, which is in line with the policy objective of enhancing tourism facilities and supporting the development of new tourism products and initiatives so that Hong Kong remains a premier tourist destination; and
- (c) the technical feasibility of the proposed development is deferred to relevant Government departments to comment.

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

- (a) District Officer (Yau Tsim Mong), Home Affairs Department;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Chief Highway Engineer/Kowloon, Highways Department; and
- (d) Director of Food Environment and Health.

## **10. Public Comments Received During Statutory Publication Periods**

During the statutory public inspection periods, a total of 738 public comments were received, including 723 supporting comments from individuals (samples at **Appendix IIIa**), and 15 comments from the Conservancy Association and individuals objecting to/expressing concerns on the application (**Appendix IIIb**). A full set of the public comments is deposited at the meeting for Members' inspection. The major grounds of public views are summarised as follows:

### **Supporting Views (723) (Appendix IIIa)**

- (a) the proposed uses are compatible with the surrounding environment. Park Lane is well-suited for outdoor seating accommodations due to its pleasant pedestrian environment. The proposal will not cause adverse impact on traffic and pedestrian flow;
- (b) the proposed uses would only generate minimal environmental impacts to the surroundings. They will be subject to regulation and monitoring of relevant licensing authorities;
- (c) not only would the proposed uses bring diversity and enhance vibrancy of the Park Lane, it would also boost the attractiveness of the wider area, creating synergy effect with the neighbouring shopping malls and commercial developments;
- (d) the proposal is a response to the changing socio-economic circumstances and consumption patterns, particularly amid the pandemic. It could provide flexibility to meet market needs, which is fairly reasonable and sympathetic considerations should therefore be given; and
- (e) the Premises is located in a prime location of the urban core, where long-standing vacant shops would be a waste of valuable land resources. The proposal would benefit the local tourism and economy by generating attractions from tourist and local.

### **Objecting Views/Concerns (15) (Appendix IIIb)**

- (a) the proposed eating place would cause environmental nuisances and hygienic threat to the surroundings, and the exhaust are harmful to the health of pedestrian and OVTs nearby. The proposed sewerage connection works will also adversely affect the root of OVTs;
- (b) the proposed uses are likely to generate significant pedestrian flow. The existing drop-off and L/UL facilities are insufficient to cater for the additional traffic flow, and thus causing further disruption to the local traffic; and
- (c) there is no mechanism in place to effectively enforce the proposed floor space limit on eating place use. Besides, the proposed uses are incompatible with Kowloon Park and would undermine the status, identity and pleasant walking environment of Park Lane. Considering the abundant amount of existing restaurants in TST, there is no actual need for more restaurants in the area.

## **11. Planning Considerations and Assessments**

- 11.1 The applicant seeks planning permission for proposed eating place (cafeteria, coffee shop and tea house) and shop and services uses at existing shopping arcade falling within an area zoned “O” and marked with ‘Shops Below’ on the OZP (**Plan A-1**). The proposed ‘Eating Place’ and ‘Shop and Services’ uses, which are Column 2 uses, require planning permission from the Board.

### Planning Intention and Land Use Compatibility

- 11.2 The subject “O” zone is primarily intended for the provision of outdoor public open-air space for active and/or passive recreational uses serving the needs of local residents as well as the general public. It is also specified in the OZP that the Premises are for shops. According to the ES of the OZP, opportunity was taken to extend the park area over the roofs of three blocks of shops fronting Nathan Road due to the level differences. The proposed scheme is to make use of the shopping arcade to provide shop and services uses with some cafeteria, coffee shop and tea house. The applied uses could enhance vibrancy and diversity to the area, and are considered not incompatible with the surrounding developments in land use perspective, which is mainly commercial in nature along Nathan Road in particular on the ground floor. In addition, C for Tourism has no objection to the proposal for diversifying Park Lane into a vibrant cultural and leisure destination and further enrich its appeal, which is in line with the policy objective of enhancing tourism facilities and supporting new tourism initiatives.
- 11.3 The existing rooftop gardens above the Premises form part of Kowloon Park managed by LCSD. Existing trees including the OVTs outside the Premises along Nathan Road and other landscape resources will not be affected by the proposal. There is also no loss of open space provision. Thus, the public enjoyment of open space will unlikely be jeopardised. CTP/UD&L considers the proposed uses are not incompatible with the landscape setting in proximity and no adverse landscape impact is anticipated. DLCS has no comment on the application from OVT preservation perspective and reserve the right to offer comments if there is any further proposal that may affect OVTs.

### Technical Aspects

- 11.4 The applicant’s traffic review report concluded that the proposal would not cause adverse impact on the nearby traffic and pedestrian networks. As such, C for T has no in-principle objection to the application subject to the incorporation of the approval condition as set out in paragraph 12.2(a) below. DEP considers that insurmountable environmental impact is not anticipated and has no objection to the application. From the sewerage aspect, DEP recommends the imposition of approval conditions as detailed in paragraphs 12.2(b) and (c) below. To address fire safety concern, approval condition under paragraph 12.2(d) below is recommended. Other relevant government departments consulted including DLCS, DSD, HyD, and WSD have no adverse comments on or objection to the application. Owners of the lot are required to apply for consent under lease. Details of the proposed scheme, if appropriate, would be considered by LandsD

in processing the consent application for uses other than shops for the retail sale of goods, in consultation with relevant Government departments as appropriate.

#### Similar Application

- 11.5 Approval of the current application is consistent with the previous decision of the Committee on the similar application as stated in paragraph 6 above.

#### Public Comments

- 11.6 Regarding the objections/concerns raised in the public comments, the planning assessments above and the departmental comments in paragraph 9 are relevant.

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

- 12.1 Based on the assessments made in paragraph 11 above, and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 14.10.2026, 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 conditions of approval and advisory clauses are suggested for Members' reference:

#### Approval Conditions

- (a) the implementation of traffic control measures as proposed by the applicant to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (b) the submission of an updated Sewerage Impact Assessment to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
- (c) the implementation of the local sewerage upgrading/sewerage connection works identified in the updated Sewerage Impact Assessment to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (d) the provision of 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**.

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

### **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 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.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

### **14. Attachments**

|                                |  |
|--------------------------------|--|
| <b>Appendix I</b>              | Application Form received on 23.5.2022 |
| <b>Appendix Ia</b>             | Supplementary Planning Statement       |
| <b>Appendix Ib</b>             | FI received on 26.8.2022               |
| <b>Appendix Ic</b>             | FI received on 5.10.2022               |
| <b>Appendix II</b>             | Detailed Departmental Comments         |
| <b>Appendices IIIa to IIIb</b> | Public Comments                        |
| <b>Appendix IV</b>             | Recommended Advisory Clauses           |
| <b>Drawing A-1</b>             | Site Plan                              |
| <b>Drawings A-2 to A-4</b>     | Floor Plans                            |
| <b>Drawing A-5</b>             | Section Plan                           |
| <b>Drawing A-6</b>             | Existing Loading/unloading Arrangement |
| <b>Plan A-1</b>                | Location Plan                          |
| <b>Plan A-2</b>                | Site Plan                              |
| <b>Plans A-3 to A-4</b>        | Site Photos                            |

**PLANNING DEPARTMENT  
OCTOBER 2022**