

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

**APPLICATION NO. A/HSK/363**

- Applicant** : Ms. WONG Lai Kam (黃麗琴) represented by Metro Planning & Development Company Limited
- Site** : Lots 924RP (Part) and 1007 RP (Part) in D.D. 125 and Adjoining Government Land (GL), Ha Tsuen, Yuen Long
- Site Area** : 1,380m<sup>2</sup> (about) (including GL of about 500m<sup>2</sup> or 36%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Village Type Development” (“V”)  
[Restricted to maximum building height of 3 storeys (8.23m)]
- Application** : Renewal of Planning Approval for Temporary Eating Place for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning approval for temporary eating place for a period of 3 years at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “V” on the approved HSK and HT OZP. According to the Notes of the OZP, ‘Eating Place’ is a Column 2 use under the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with previous planning permission lapsed on 3.5.2022 (**Plans A-4a and A-4b**).
- 1.2 The Site is accessible from Ha Mei Road via a local track with the ingress/egress point at the southern side of the Site (**Drawing A-1 and Plan A-2**). As shown on the proposed layout plan at **Drawing A-2**, the applied use comprises a 2-storey structure (not exceeding 7.5m high) including about 180m<sup>2</sup> for eating area, about 390m<sup>2</sup> for open sheds, kitchen, store room and toilet at the ground floor and about 150m<sup>2</sup> for store room, staff rest room and toilet at the first floor. 8 parking spaces for private cars and a manoeuvring circle of 12m in diameter are proposed at the southern portion of the Site. According to the applicant, the operation hours are from 7:00 a.m. to 11:00 p.m. daily. The as-built drainage plan submitted by the

applicant is at **Drawing A-3**.

- 1.3 The Site is involved in 2 previous planning applications (details at paragraph 6 below).
- 1.4 In support of the application, the applicant has submitted the following documents:
  - (a) Application Form received on 14.2.2022 with estimated traffic generation and drawings **(Appendix I)**
  - (b) Supplementary Information (SI) received on 17.2.2022 providing information on operation hours and vehicle access to the Site **(Appendix Ia)**
- 1.5 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 1.4.2022 for consideration of the application has been rescheduled, and the Board agreed to defer consideration of this application (the previous planning permission was valid up to 3.5.2022). The application is now scheduled for consideration by the Rural and New Town Planning Committee (the Committee) at this meeting.

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

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

- (a) The Site is the subject of two previous planning permissions for the same use and the applicant had complied with all the approval conditions imposed by the Board in the last application (No. A/HSK/144).
- (b) Similar eating place applications within the same “V” zone including application No. A/HSK/332 have been approved by the Board. The planning circumstance is similar to the current application.
- (c) The applied use is temporary in nature and would not jeopardize the long-term planning intention of “V” zone. ‘Eating Place’ is a Column 2 use in the “V” zone and is always permitted at the ground floor of a New Territories Exempted House (NTEH).
- (d) The applied use is not incompatible with the surrounding environment. The environmental impact from the applied use would be insignificant as there will be no operation during sensitive hours and no heavy vehicles are allowed. With the existing U-channel on the Site, insignificant drainage impact is expected.

## **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. 31A) by posting site notice and sending notice to Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. The “Owner’s Consent/Notification” Requirements under TPG PG-No.31A are not applicable to the GL portion.

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

- 4.1 The Town Planning Board Guidelines for ‘Application for Eating Place within “Village Type Development” Zone in Rural Areas under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 15A) are relevant to the application. Relevant extracts of the Guidelines are attached at **Appendix II**.
- 4.2 The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34D) are relevant to the application. The relevant assessment criteria are at **Appendix III**.

#### **5. Background**

The Site is currently not subject to any active planning enforcement action.

#### **6. Previous Applications**

- 6.1 The Site is involved in 2 previous applications (No. A/YL-HT/1009 and No. A/HSK/144) for temporary eating place use. These applications were approved by the Committee in 2016 and 2019 respectively on similar considerations that approval of the applications would not jeopardize the long-term development of the site; the application was generally in line with the then TPB PG-No.15A; and relevant approval conditions were recommended to address the technical requirements of concerned government departments. Details of these applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.
- 6.2 The last application No. A/HSK/144, which was submitted by the same applicant for the same applied use at the same site, was approved with conditions by the Committee for a period of 3 years on 3.5.2019 with validity up to 3.5.2022. All the time-limited approval conditions had been complied with. The layout and development parameters of the current application are same with the last planning approval. The current application is a renewal application.

#### **7. Similar Application**

A similar application (No. A/HSK/332) for temporary eating place and shop and services was approved by the Committee with conditions within the same “V” zone on the HSK and HT OZP based on similar considerations as mentioned in paragraph 6.1 above. Details of the application are summarized at **Appendix VI** and its location is shown on **Plan A-1**.

#### **8. The Site and Its Surrounding Areas (Plans A-1a to A-4b)**

- 8.1 The Site is:
  - (a) being used for the applied use without valid planning permission; and
  - (b) accessible from Ha Mei Road via local track.
- 8.2 The surrounding areas have the following characteristics:

- (a) to its north is a pond and to its northeast are Ping Ha Road Garden, a basketball court and an electricity sub-station. To the further north is a vehicle park and the village settlement of Lo Uk Tsuen;
- (b) to its east are Ha Tsuen Soccer Pitch, a nullah and Ping Ha Road;
- (c) to its south is a temporary public vehicle park for private car and light goods vehicle with valid planning permission, the Ha Tsuen Rural Committee building and a public toilet; and
- (d) to its west across Ha Mei Road are the village settlement of Sik Kong Tsuen (the nearest residential dwelling is about 24m away), Sik Kong Tsuen Playground, a basketball court, a shrine and a sitting-out area.

## **9. Planning Intention**

The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

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

All 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 VI and VII** respectively.

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

On 25.2.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments from individuals were received (**Appendix V**). One commenter objects to the application on the grounds that the applied use being in the vicinity of residential dwellings will generate environmental nuisance, pose fire safety hazard, and adversely affect the safety and living quality of the villagers, and the other commenter expressed concerns on the extent of GL included in the previous approved cases at the Site.

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

12.1 The application is for renewal of planning approval for temporary eating place for a period of 3 years at the Site within the “V” zone. Whilst the applied use is not entirely in line with the planning intention of the “V” zone which is primarily for development of SH by indigenous villagers, it could provide catering service to meet any such demand in the area. According to the District Lands Officer/Yuen Long, there is currently no Small House application approved at the Site.

Approval of the application on a temporary basis of 3 years would not frustrate the planning intention of the “V” zone and jeopardise the long-term development of the Site.

- 12.2 The surrounding areas of the Site are predominantly rural in character with a soccer pitch adjoining the site and village settlement of Sik Kong Tsuen to the west across Ha Mei Road (**Plan A-2**). As such, the eating place is considered not incompatible with the surrounding land uses.
- 12.3 The current application is a renewal application of the last approved application (No. A/HSK/144) for a period of 3 years. There has been no major change in planning circumstances of the Site and the surrounding areas since the last approval. The approval of the application on a temporary basis would not jeopardise the implementation of the zoned use, and all the approval conditions under the last approved application have been complied with. Compared with the last approved application, the current application is for the same use at the same site for the same approval period and the development parameters and the layout remain unchanged. In view of the above, the renewal application is considered generally in line with the TPB PG-No. 34D.
- 12.4 The application is generally in line with TPB PG-No. 15A in that the eating place is located at the fringe of the “V” zone and accessible from Ha Mei Road via a local track to its south. The eating place is also located adjacent to recreational uses that worthy of favourable consideration. In addition, there is no adverse comment from the concerned Government departments, including DEP, C for T, CE/MN of DSD, D of FS and DFEH. Significant environmental, traffic, drainage, fire safety and environmental hygiene impacts to the area are not expected.
- 12.5 To address the technical requirements of the concerned government departments, relevant approval conditions are recommended in paragraph 13.2 below. Any non-compliance with these approval conditions would result in revocation of the planning permission and any unauthorised development on the Site would be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will also be advised to follow the latest ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimise the possible environmental impacts on the surrounding areas.
- 12.6 In addition to the 2 previous planning approvals for the same use at the Site, there is a similar approval for temporary eating place and shop and services (No. A/HSK/332) within the same “V” zone on the OZP (**Plan A-1**). Approval of the subject application is generally in line with the Committee’s previous decisions.
- 12.7 Two public comments were received objecting to/raising concern on the application during the statutory publication period as summarised in paragraph 11. The planning considerations and assessments in the above paragraphs 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 on paragraph 11, the Planning Department considers that the temporary eating place could be tolerated for a further period of 3 years.

- 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 3 years and be renewed up to **1.6.2025**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the existing drainage facilities shall be maintained at all times during the planning approval period;
- (b) the existing trees and landscape planting on the Site shall be maintained at all time during the planning approval period;
- (c) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **1.9.2022**;
- (d) the submission of a 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 **1.12.2022**;
- (e) in relation to (d) above, the implementation of the fire service 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 **1.3.2023**;
- (f) if any of the above planning condition (a) or (b) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (g) if any of the above planning condition (c), (d) or (e) is not complied with by the above specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

*[Conditions (a) to (e) are all the same as the previous Application No. A/HSK/144]*

Advisory clauses

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

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the applied use is not in line with the planning intention of the "Village Type Development" zone which is primarily for development of Small Houses by indigenous villagers. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

## **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**

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| <b>Appendix I</b>        | Application Form received on 14.2.2022   |
| <b>Appendix Ia</b>       | SI received on 17.2.2022   |
| <b>Appendix II</b>       | Relevant Extracts of Town Planning Board Guidelines for 'Application for Eating Place within "V" Zone in Rural Areas under Section 16 of the Town Planning Ordinance' (TPB PG-No. 15A)               |
| <b>Appendix III</b>      | Relevant Extracts of Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34D) |
| <b>Appendix IV</b>       | Previous and Similar Applications  |
| <b>Appendix V</b>        | Public Comments  |
| <b>Appendix VI</b>       | Government Departments' General Comments   |
| <b>Appendix VII</b>      | Recommended Advisory Clauses   |
| <b>Drawing A-1</b>       | Site Plan  |
| <b>Drawing A-2</b>       | Proposed Layout Plan   |
| <b>Drawing A-3</b>       | As-built Drainage Plan   |
| <b>Plan A-1</b>          | Location Plan  |
| <b>Plan A-2</b>          | Site Plan  |
| <b>Plan A-3</b>          | Aerial Photo   |
| <b>Plans A-4a and 4b</b> | Site Photos  |

**PLANNING DEPARTMENT  
JUNE 2022**