

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/459

<u>Applicant</u>	: Mr. Wing Hei WONG (王永禧) represented by R-riches Property Consultants Limited
<u>Premises</u>	: Shop 33, G/F, Tak Cheung Building, No.1 Hung Shui Kiu Main Street, Yuen Long, New Territories
<u>Total Floor Area of Premises</u>	: About 28.2m ²
<u>Lease</u>	: (a) Under New Grant No. 2433 (b) Restricted to non-industrial purposes (excluding offensive trade)
<u>Plan</u>	: Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2
<u>Zoning</u>	: “Residential (Group B) 3” (“R(B)3”) <i>[Restricted to a maximum plot ratio (PR) of 1.26, a maximum site coverage of 40% and a maximum building height (BH) of 6 storeys over single-storey car park]</i>
<u>Application</u>	: Eating Place

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for an eating place. The Premises falls within the “R(B)3” zone on the approved HSK and HT OZP (**Plan A-1**). According to the Notes of the OZP, ‘Eating Place’ is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Premises is currently used for the applied use without valid planning permission.
- 1.2 The Premises is located at the ground floor of a six-storey composite building (Tak Cheung Building) with non-domestic uses at the lowest two floors and residential use at the upper floors. According to the applicant, the eating place is a light refreshment restaurant with an estimated capacity of 16 people. The operation hours are from 11:30 a.m. to 9:00 p.m. daily. The layout plan of the applied use submitted by the applicant is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted an Application Form with attachments received on 24.5.2023 (**Appendix I**)

2. Justifications from the Applicant

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

- (a) The eating place is intended to meet the pressing demand for restaurants to serve the nearby residents.
- (b) The eating place is considered in line with the planning intention of the “R(B)3” zone. Several similar applications for eating place and shop and services (fast food shop) in the same building were approved by the Board.
- (c) The eating place is small in scale with an estimated capacity of 16 people.
- (d) The applied use only involves minor modifications to the interior of the Premises and there is no outdoor seating area proposed. There is no adverse impact on the surrounding environment. The applicant will apply for a light refreshment restaurant license issued by the Food and Environmental Hygiene Department (FEHD) and will strictly comply with all environmental protection and pollution control ordinances.

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 Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Premises is not subject to any planning enforcement action.

5. Previous Application

There is no previous application in respect of the Premises.

6. Similar Applications

There is no similar application within the same “R(B)3” zone on the OZP. However, there were four similar applications for eating place use (No. A/YL-PS/487, 490, 524 and 525) at the same building when it was zoned “R(B)” on the then Ping Shan OZP, which were approved by the Rural and New Town Planning Committee (the Committee) of the Board between 2015 and 2016 on the considerations that eating place use was not incompatible with the uses of the same building and surroundings; no adverse impact was anticipated; and approval was in line with the Committee’s previous decisions.

Details of these applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

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

7.1 The Premises is:

- (a) located at G/F of an existing 6-storey composite building¹ (Tak Cheung Building); and
- (b) currently used for eating place without valid planning permission.

7.2 The current uses of the subject building are summarised below:

Floor	Current Uses
G/F	Eating Place (the Premises), tutorial school, clinic, real estate agencies, bicycle tour agency, logistics service centre, restaurants, shops, laundry, vacant shops and residential care home for the elderly.
1/F	Residential care home for the elderly
2/F to 5/F	Flats

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

- (a) to the north and northwest are Hung Shui Kiu Temporary Market, a refuse collection point and a sitting out area;
- (b) to its west is a residential development (Tak Hing Building) with shops and eating places on the G/F; to its further north across Hung Pak Road and further west across King Yuen Road is a residential development (Parkview Garden);
- (c) to its east across Hung Shui Kiu Main Street is a nullah and some residential developments; and
- (d) to the south is Light Rail; to the further southeast and south across Castle Peak Road - Hung Shui Kiu are some residential dwellings, a car service establishment, a restaurant and a shop.

8. Planning Intention

The planning intention of the “R(B)” zone is primarily for medium-density residential developments where commercial uses serving the residential neighbourhood may be permitted with or without application to the Board.

¹ The existing building of the Premises was completed with occupation permit (OP) issued in 1979. According to the OP, the lowest two floors were for non-domestic use, including shops, office and storerooms.

9. Comments from Relevant Government Departments

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

Land Administration

- 9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

The Premises is situated at Lot 4177 in D.D.124 held under New Grant No. 2433 dated 12.11.1976. Pursuant to the lease conditions, 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 non-industrial purposes excluding any trade which is now or may thereafter be declared to be an offensive trade under the Public Health and Urban Services Ordinance or any enactment amending the same or substituted therefore. In this regard, he has no adverse comment on the applied use of eating place at the Premises from land administrative point of view.

Building Matters

- 9.1.2 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) He has no objection in principle under the Buildings Ordinance to the application.
- (b) His detailed advisory comments are at **Appendix III**.

Traffic

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

She has no comment on the application from traffic engineering point of view.

- 9.1.4 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) No adverse comment on the application from highway maintenance point of view.
- (b) His detailed advisory comments are at **Appendix III**.

Drainage

- 9.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

He has no objection in principle to the proposed development from the drainage point of view.

Fire Safety

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

- (a) He has no objection in principle to the application subject to fire service installations being provided to his satisfaction.
- (b) Detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Environment

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

There was no environmental complaint pertaining to the Premises received in the past three years.

Food Licence

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

- (a) No Food and Environmental Hygiene Department (FEHD)'s facilities will be affected.
- (b) Proper licence / permit issued by her department is required if there is any catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap.132) and other relevant legislation for the public. The operation of any eating place should be under a food licence issued by the FEHD.
- (c) Her detailed advisory comments are at **Appendix III**.

District Officer's Comments

9.1.9 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

- (a) He has no comment on the application from departmental point of view.
- (b) He has not received any comment from the locals on the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and

- (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD).

10. Public Comment Received During Statutory Publication Period

On 2.6.2023, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The application is for eating place use at the Premises within the “R(B)3” zone on the OZP (**Plan A-1**). The planning intention of the “R(B)” zone is primarily for medium-density residential developments where commercial uses serving the residential neighbourhood may be permitted with or without application to the Board. The applied eating place serving the local area including nearby residents is generally in line with the planning intention of the zone.
- 11.2 The applied eating place is situated on the G/F of an existing 6-storey composite building with its lowest two floors being used for non-domestic purposes. The adjacent areas mainly comprise shops, eating places, tutorial school, temporary market and sitting-out area. The applied use is considered not incompatible with the current uses of the subject building and the surrounding areas.
- 11.3 The subject eating place is small in scale with a floor area of about 28.2m² and an estimated capacity of 16 people. Given the small scale of the applied use, it is unlikely that it would cause any significant adverse impacts on the surroundings. In this regard, relevant government departments including C for T, CE/MN, DSD, DEP and D of FS have no objection to / no adverse comment on the application.
- 11.4 There are four similar applications for eating place use within the non-domestic portion of the same building approved by the Committee between 2015 and 2016 (**Plan A-1**). Approval of the current application is in line with the Committee’s previous decisions.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, no time clause on commencement is proposed as the shop and service use under application is already in operation. The following condition of approval and advisory clauses are suggested for Members’ reference:

Approval condition

the submission and implementation of a fire service installations proposal 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 III**.

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.

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 applicant.

14. Attachments

Appendix I	Application Form with attachments received on 24.5.2023
Appendix II	Similar Applications
Appendix III	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2023**