

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

**APPLICATION NO. A/SK-PK/264**

<b><u>Applicant:</u></b>	Mrs. WONG Sung King, Dorothy represented by KTA Planning Limited
<b><u>Premises:</u></b>	Ground Floor, No. 5 Wang Kong Tsuen
<b><u>Floor Area:</u></b>	About 55.7m <sup>2</sup>
<b><u>Land Status:</u></b>	Lot No. 278 (Part) in D.D. 221 – Free Building Licence No. 1673 restricts for ‘non-industrial’ purposes
<b><u>Plan:</u></b>	Approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No. S/SK-PK/11
<b><u>Zoning:</u></b>	“Recreation” (“REC”)
<b><u>Application:</u></b>	Proposed Shop and Services (Fast Food Shop)

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed shop and services (fast food shop) use at the application premises (the Premises). The Premises (**Plans A-1 and A-2**) falls within an area zoned “REC” on the approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No. S/SK-PK/11. According to the Notes of the OZP, ‘shop and services’ use within “REC” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises is currently a fitted kitchen. The proposed fast food shop is on the ground floor of a 3-storey New Territories Exempted House (NTEH) with a floor area of about 55.7m<sup>2</sup>. It has a separate entrance from the residential units on the upper floors (**Drawing A-1**). The proposed fast food shop involves a food preparation room, two staff lavatories and a retail area at the entrance. According to the applicant, a food factory license for the proposed fast food shop will be applied upon obtaining the planning permission. Adequate fire service installations will also be provided at the Premises. The operating hours of the fast food shop will be from 10 a.m. to 9 p.m. daily. No parking space is proposed.

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

- (a) Application form received on 17.5.2021 **(Appendix I)**
- (b) Supporting Planning Statement **(Appendix Ia)**
- (c) Supplementary Information including a revised layout plan to rectify the application boundary received on 17.5.2021 **(Appendix Ib)**
- (d) Further information (FI) including responses to departmental comments received on 24.8.2021\* **(Appendix Ic)**
- (e) FI including responses to departmental comments and Noise Impact Assessment (NIA) Report received on 15.12.2021# **(Appendix Id)**
- (f) FI including responses to departmental comments and replacement pages for NIA Report received on 14.1.2022\* **(Appendix Ie)**

*\*accepted and exempted from publication and recounting requirements*

*#accepted but not exempted from publication and recounting requirements*

1.4 On 9.7.2021 and 15.10.2021, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application each for two months as requested by the applicant. With the FIs received on 15.12.2021 and 14.1.2022, the application is scheduled for consideration by the Committee at this meeting.

## **2. Justification from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Section 4 of the Supporting Planning Statement (**Appendix Ia**) and FIs (**Appendices Ic to Ie**). They can be summarised as follows:

- (a) the proposed fast food shop is located on the ground floor of a NTEH which is part of Sha Kok Mei Village. It falls within the village environs of Sha Kok Mei (including Ngau Liu). The proposed use is compatible with the surrounding village neighbourhood in particular the adjoining area zoned “Village Type Development” (“V”) in which ‘shop and services’ use is always permitted on the ground floor of a NTEH;
- (b) there will be no adverse environmental impact associated with the proposed fast food shop. Various measures are proposed to avoid adverse impacts in terms of air, waste disposal and sewerage aspects on the surrounding areas. All solid waste generated will be properly collected and deposited daily to the refuse collection point which is located within 100m walking distance from the Premises. No outdoor seating area is proposed. The exhaust outlets will be positioned at least 3m above main roof of the existing village houses, and will be facing southwards to minimise any potential air quality and noise impact (NIA Report in **Appendices Id and Ie** refer). It is proposed to construct a holding tank for the

sewage to be generated by the proposed fast food shop and tank away regularly about every three to four days. The proposed location of the sewage holding tank is at **Drawing A-3**;

- (c) there is genuine demand for fast food shop in the area as there is a lack of eating outlet serving the daily needs of the residents in the area. The proposed fast food shop will fill the service gap for the residential neighbourhood; and
- (d) the proposed fast food shop is conveniently located at the fringe of Sha Kok Mei Village and close to Tai Mong Tsai Road. It aims to serve residents in the neighbourhood and it is not anticipated that the proposed fast food shop will attract traffic to the village.

### **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**

As the Premises has been converted to a fitted kitchen, it would be subject to planning enforcement action should there be sufficient evidence.

### **5. Previous Application**

There is no previous application at the Premises.

### **6. Similar Application**

There is no similar application for shop and services use within the “REC” zone on the same OZP.

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

7.1 The Premises is:

- (a) located at the ground floor of a 3-storey NTEH which is currently a fitted kitchen;
- (b) accessible via a footpath about 40m from Tai Mong Tsai Road; and
- (c) within the village environs of Sha Kok Mei (including Ngau Liu).

7.2 The surrounding areas have the following characteristics:

- (a) the existing developments in the vicinity of the Premises are predominantly

village houses of Sha Kok Mei Village and Wang Kong Tsuen;

- (b) there is no eating place / fast food shop on ground floor of village houses in the vicinity;
- (c) to the immediate north and south of the Premises are village houses while to the west is a nullah;
- (d) to the further north and northeast of the Premises are farmland and warehouses respectively;
- (e) to the further south and east of the Premises across Tai Mong Tsai Road are a medium-rise residential development namely The Mediterranean (zoned “Comprehensive Development Area (2)” (“CDA(2)”) on Sai Kung Town OZP), and a site currently use as open storage for construction materials (within the “CDA(1)” zone on Sai Kung Town OZP) respectively (**Plans A-2 and 3**); and
- (f) Sai Kung Town Centre is about 600m south of the Premises.

## **8. Planning Intention**

The planning intention of “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

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

9.1 The following government departments have been consulted and their views are summarised as follows:

### **Land Administration**

9.1.1 Comments of the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD):

- (a) the Premises falls entirely within the building erected on Lot No. 278 (Part) in D.D. 221 (“the Lot”);
- (b) the Lot is an old schedule agricultural lot held under the Block Government Lease. Approval has been given for construction of a small house at the Lot by way of Free Building Licence No. 1673 (“the BL”), which was executed on 18.12.2001. According to Condition 10(a) of the BL, the Lot and any building erected thereon or any part of such building shall not be used for any purpose other than non-industrial purposes; and
- (c) as indicated in the application, the proposed shop and services (fast

food shop) is to fill the service gap for the residential neighbourhood where there is a strong demand for retail and eating outlets. Subject to the proposed use being retail/commercial in nature, he has no objection to the application from the lease point of view.

### **Traffic**

#### 9.1.2 Comments of the Commissioner for Transport (C for T):

no comment on the application from traffic engineering perspective.

### **Environment**

#### 9.1.3 Comments of the Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD):

the site is currently not covered by DSD's public sewerage network.

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

- (a) according to the provided information, it is understood that the exhaust hood of the proposed fast food shop would be equipped with forefront grease pre-filters and electrostatic precipitator for grease collection and removal of fine particles. The exhaust outlets of the ventilation system would be installed with silencers and positioned at least 3m above roof level at the northwest-facing façade of the existing village house at the site facing south to minimise potential air quality and noise impact to nearby sensitive receivers;
- (b) sewage holding tank, which is separated from the septic tank and soakaway system for the village house at the site, is proposed for the sewage generated from the proposed fast food shop and the collected sewage would be tinkered away by licenced waste collector every three to four days;
- (c) based on the above, no adverse environmental impact is anticipated with the implementation of the mitigation measures and thus DEP has no objection to the application from environmental planning perspective;
- (d) the applicant is reminded to observe and comply with the relevant legislation, regulations and guidelines on waste management as appropriate; and
- (e) there is no substantiated environmental complaint at the Premises in the past three years.

## **Drainage**

### 9.1.5 Comments of the CE/MS, DSD:

- (a) the site is currently not covered by DSD's public drainage network;  
and
- (b) no objection in-principle to the application from drainage maintenance viewpoint, on the condition that adequate stormwater drainage collection and disposal facilities will be provided in connection with the proposed development to deal with the surface runoff of the Premises and the same flowing onto the site without causing any adverse impacts or nuisance to the adjoining areas.

## **Food and Environmental Hygiene**

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

- (a) no objection to the application;
- (b) no food licence/permit is granted by the Food and Environmental Hygiene Department (FEHD) for the proposed fast food shop at the Premises. No application for food licence for the Premises has been received and under processing;
- (c) the applicant is advised on the following:
  - (i) proper licence / permit issued by FEHD is required if there is any food business / 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. If the operator intends to operate a restaurant business in the territory, a restaurant licence should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132). For the operation of other types of food business, relevant food licences should also be obtained from FEHD in accordance with Cap. 132. Under the Food Business Regulation, Cap. 132X, a Food Factory Licence should be obtained from FEHD for food business which involves the preparation of food for sale for human consumption off the premises before commencement of such business. The application for food business licences under Cap.132, if acceptable by FEHD, will be referred to relevant government departments for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements; and
  - (ii) for any waste generated from the commercial/trading activities,

the applicant/management/owner of the Premises should handle its removal and disposal on his/her own/at his/her expenses. The applicant is reminded that the operation of the food business place must not cause any obstruction or environmental nuisance to the surroundings.

### **Fire Safety**

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

no in-principle objection to the application subject to fire service installations being provided to the satisfaction of the D of FS. Detailed comments are at **Appendix III**.

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

- (a) Chief Building Surveyor/Hong Kong West, Buildings Department;
- (b) Chief Engineer (Works), Home Affairs Department (HAD);
- (c) District Officer/Sai Kung, HAD;
- (d) Director of Agriculture, Fisheries and Conservation; and
- (e) Chief Engineer/Construction, Water Supplies Department.

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

10.1 On 25.5.2021 and 24.12.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection periods which ended on 15.6.2021 and 14.1.2022, a total of 153 public comments were received. Amongst them, 135 object to the application, 16 support the application, and two provide views on the application. A full set of public comments received on the application is deposited at the Board's Secretariat for Members' inspection and samples of the public comments are at **Appendix II**.

10.2 The 135 opposing comments are submitted by Sai Kok Mei Village Office (submitted twice), Sha Kok Mei Villager Concern Group (including a letter with objection reasons jointly signed by 129 Sha Kok Mei Tsen villagers), and individuals who are mainly villagers of Sha Kok Mei Tsen and Wang Kong Tsen. The major objection grounds/concerns are summarised as follows:

- (a) it is not compatible with the surrounding uses;
- (b) it is within a small house development intended for domestic use by indigenous villagers while the Premises is converted to a kitchen without permission;
- (c) it will cause adverse impacts and nuisances in terms of sewerage, noise, air quality, odour, waste disposal, hygiene and fire safety. It will also affect the tranquillity of the area and cause security concerns;
- (d) the entrance of the Premises is facing a narrow footpath for access to Wang

Kong Tsuen. It will increase visitors to the village and obstruct the access, as well as aggravate the illegal parking problem at the entrance of the village; and

(e) approval of the application will encourage similar development in the neighbourhood.

10.3 The 16 supporting comments are submitted by individuals mainly on the grounds that the Premises is situated at a convenient location, and the proposed fast food shop will serve the needs of the residents in the neighborhood.

10.4 The two comments providing views are both submitted by Sai Kung Rural Committee. It suggests the applicant to consult the Village Representatives of Sai Kok Mei Village, and villagers and residents of nearby villages for consensus on the proposed fast food shop.

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

11.1 The application is for proposed shop and services (fast food shop) at the Premises falling within an area zoned “REC” on the approved Pak Kong and Sha Kok Mei OZP. The “REC” zone is intended primarily for recreational developments for the use of the general public. Uses in support of the recreational developments may be permitted subject to planning permission. The proposed fast food shop is not related to any recreational development. However, it should be noted that the site has been developed as an NTEH.

11.2 The Premises is located about 15m from the adjoining “V” zone to the west and it is within the village environs of Sha Kok Mei (including Ngau Liu). It is located at the ground floor of a 3-storey NTEH with a floor area of about 55.7m<sup>2</sup>. It is surrounded mainly by village houses with farmland and warehouses to its north and northeast (**Plan A-3**). It is in proximity to the villages in the “V” zone. According to the applicant, the proposed fast food shop aims to serve the residents of the neighbourhood. Given its small scale, the proposed use is considered not entirely incompatible with the surrounding environment.

11.3 The applicant states that a food factory license for the proposed fast food shop will be applied upon obtaining the planning permission. DFEH has no objection to the application and advises that proper licence / permit is required for the proposed fast food shop. The application for food business licences, if acceptable by FEHD, will be referred to relevant government departments for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements.

11.4 According to the applicant, various measures are proposed to avoid adverse impacts in terms of air, waste disposal and sewerage aspects on the surrounding areas. All solid waste generated will be properly collected and deposited daily to the refuse collection point which is located within 100m walking distance from the Premises. No outdoor seating area is proposed. The exhaust outlets will be positioned at least 3m above main roof of the existing village houses, and will be



facing southwards to minimise any potential air quality and noise impact (**Drawing A-2**). It is proposed to construct a holding tank within the Lot for the sewage to be generated by the proposed fast food shop and tank away regularly about every three to four days. DEP has no objection to the application from environmental planning perspective considering that no adverse environmental impact is anticipated with the implementation of the mitigation measures as proposed by the applicant.

- 11.5 On drainage, fire safety and traffic aspects, concerned departments including CE/MS, DSD, D of FS and C for T have no objection to/no adverse comment on the application. Should the application be approved, relevant approval conditions as recommended by concerned departments are suggested in paragraph 12.2 below.
- 11.6 There were 153 public comments received during the statutory publication periods of which 135 oppose, 16 support and two provide views on the application. The departmental comments in paragraph 9 above and planning assessments in paragraphs 11.1 to 11.5 above are relevant.

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

- 12.1 Based on the assessments made in paragraph 11 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 planning permission shall be valid until 28.1.2026 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 approval conditions and advisory clauses are also suggested for Members' consideration:

### Approval Conditions

- (a) the provision of fire services installations to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage 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 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 applicant.

#### **14. Attachments**

<b>Appendix I</b>	Application Form received on 17.5.2021
<b>Appendix Ia</b>	Supporting Planning Statement
<b>Appendix Ib</b>	Supplementary Information received on 17.5.2021
<b>Appendix Ic</b>	FI received on 24.8.2021
<b>Appendix Id</b>	FI received on 15.12.2021
<b>Appendix Ie</b>	FI received on 14.1.2022
<b>Appendix II</b>	Public Comments
<b>Appendix III</b>	Detailed Departmental Comments
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan submitted by the applicant
<b>Drawing A-2</b>	Proposed location of ventilation exhaust and representative noise sensitive receivers for fixed NIA
<b>Drawing A-3</b>	Proposed location of the sewage holding tank
<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  
JANUARY 2022**