

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

**APPLICATION NO. A/SK-PK/274**

- Applicant** : Ms. CHOW Wai Fong Forna
- Site** : Shop 10D and Open Area in front of the Shop, G/F, Po Tung Road, Lot 1827 (Part) in D.D. 221, Sai Kung, New Territories
- Site Area** : About 71.1m<sup>2</sup>
- Lease** : New Grant No. 6720 restricts the ground floor of any building erected thereon to non-industrial use
- Plan** : Approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No. S/SK-PK/11
- Zoning** : Area shown as 'Road'
- Application** : Renewal of Planning Approval for Temporary Eating Place including Outside Seating Accommodation (OSA) of Restaurant for a Period of Three Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning approval at the application site (the Site), which comprises the ground floor of an existing three-storey village house (i.e. Shop 10D) and an open area in front of the shop, for temporary eating place including OSA of restaurant for a period of three years. The Site falls within an area shown as 'Road' on the approved Pak Kong and Sha Kok Mei OZP No. S/SK-PK/11 (**Plan A-1**). According to the covering Notes of the OZP, the proposed temporary use of the Site requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site is currently used for the applied use under application No. A/SK-PK/250 with planning permission valid until 29.7.2022. The current proposal for temporary eating place and OSA is about 71.1m<sup>2</sup>, which includes an area of 57.18m<sup>2</sup> as eating place, and an area of 13.92m<sup>2</sup> as OSA (**Drawing A-2**). The operation hours are 1 p.m. to 11 p.m. daily. The Site is abutting Po Tung Road and no parking space is proposed. The location plan and layout plan submitted by the applicant are at **Drawings A-1 and A-2**.
- 1.3 The Site is the subject of two previously approved applications (No.

A/SK-PK/230 and A/SK-PK/250). Details of the applications are at paragraph 5 below. As compared with the two previous applications, the current proposal involves a reduction in site area of about 18.7m<sup>2</sup> (from about 89.8m<sup>2</sup> to 71.1m<sup>2</sup>) due to exclusion of the government land from the OSA to avoid encroaching onto the project area of Hiram's Highway Improvement Stage 2. There is no change in the area and the general layout of the eating place. The applicant and the applied use in the current application have remained the same as the previous applications.

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

- |  |                      |
|--|----------------------|
| (a) Application form dated 26.5.2022               | <b>(Appendix I)</b>  |
| (b) Further information (FI) received on 23.6.2022 | <b>(Appendix Ia)</b> |

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

The justifications put forth by the applicant in support of the application are detailed in part 7 of the application form and FI at **Appendices I and Ia** respectively. They can be summarised as follows:

the applied use provides a comfortable open seating area for patrons who would like to be close to the natural environment and enjoy fresh air. The proposal has been revised to exclude a portion of the OSA area that falls within the project area of Hiram's Highway Improvement Stage 2.

## **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 Sai Kung Rural Committee. Detailed information would be deposited at the meeting for Members' inspection.

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

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 attached at **Appendix II**.

## **5. Previous Applications**

The Site is the subject of two previously approved applications (No. A/SK-PK/230 and A/SK-PK/250) submitted by the same applicant for the same temporary use as the current application. They were approved by the Committee on 29.7.2016 and

19.7.2019 respectively mainly on the grounds that the proposed use on temporary basis would not frustrate the planning intention of the area shown as 'Road'; the proposed use was considered not incompatible with the surrounding uses such as retail shops and restaurants on the ground level of the nearby village houses; and no adverse impacts on the surrounding areas were anticipated. All approval conditions of the last application (No. A/SK-PK/250) have been complied with. Details of the applications are summarised in **Appendix III** and their locations are shown in **Plans A-1 and A-2**.

## **6. Similar Applications**

There are seven similar applications for temporary eating place and/or OSA within the same area shown as 'Road' on the OZP in the past five years. All of the applications were approved by the Committee mainly on the grounds that the planning intention of area shown as 'Road' would not be jeopardised; compatible with existing commercial uses on the ground level of nearby houses; and no adverse impacts on the surrounding areas were anticipated. Details of the applications are summarised at **Appendix IV** and their locations are shown in **Plans A-1 and A-2**.

## **7. The Site and its Surrounding Areas (Plans A-1 and A-2, aerial photos on Plan A-3, and site photos on Plans A-4a and A-4b)**

7.1 The Site is:

- (a) located on the ground floor of a 3-storey village house and an open area in front of the village house;
- (b) accessible via Po Tung Road;
- (c) outside the project area of Hiram's Highway Improvement Stage 2; and
- (d) currently occupied by the applied use with valid planning permission.

7.2 The surrounding areas have the following characteristics:

- (a) the existing developments in the vicinity of the Site are predominantly village houses and low-rise residential developments with ground floors mostly occupied by shops and restaurants; and
- (b) two open metered car parks are located about 50 metres northwest and 20 metres southeast of the Site (**Plans A-2 and A-3**) and are accessible via Po Tung Road and Hiram's Highway.

## **8. Planning Intention**

The Site falls within an area shown as 'Road' on the approved Pak Kong and Sha Kok Mei OZP No. S/SK-PK/11, and forms part of land area reserved for future widening and junction improvement of Hiram's Highway.

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

All the 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 V and VI**.

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

On 7.6.2022, 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 renewal of planning approval for temporary eating place including OSA of restaurant for a further period of three years. The Site falls within an area shown as 'Road' on the OZP, which is intended to reserve land for future widening and junction improvement of Hiram's Highway. Although the applied use is not in line with the planning intention of the area shown as 'Road', given the temporary nature of the applied use and it has not affected the project area of Hiram's Highway Improvement Stage 2, it is considered that temporary approval of the renewal application for a further period of three years would not jeopardise the long-term planning intention of the area shown as 'Road'. Both the Commissioner for Transport (C for T) and the Chief Highway Engineer/New Territories East of Highways Department (CHE/NTE, HyD) have no objection to or no comment on the application.

11.2 The Site is located at the fringe of Sai Kung Town. The applied use is considered not incompatible with the surrounding areas, which are mainly village houses and low-rise residential developments with retail shops and restaurants on the ground floors. There are also a number of approved similar applications for eating place and/or OSA in the vicinity of the Site (**Plans A-1 and A-2**). In view of its small scale of operation, the applied eating place including OSA would unlikely cause adverse traffic, environmental, drainage and fire safety impacts on the surrounding areas. Relevant government departments consulted including C for T, CHE/NTE, HyD, Director of Environmental Protection, Chief Engineer/Mainland South of Drainage Services Department and Director of Fire Services have no objection to or no adverse comment on the application.

11.3 The Site is the subject of two previously approved applications (No. A/SK-PK/230 and A/SK-PK/250) for the same temporary use approved by the Committee in 2016 and 2019 respectively. As compared with the two previous applications, the current proposal involves a reduction in site area of about 18.7m<sup>2</sup> due to exclusion of part of the OSA area in the previous schemes to avoid encroaching onto the project area of Hiram's Highway Improvement Stage 2. The application is generally in line with TPB PG-No. 34D in that there has been no major change in planning circumstances since the previous temporary approval was granted; all approval conditions under the previous approval of No.

A/SK-PK/250 have been complied with; no government departments consulted have objection to or adverse comment on the application; and the three-year approval period sought is not longer than the original validity period of the previous approval and is reasonable. In view of the above, favourable consideration could be given to the renewal application for a further period of three years. Also, approval of the current renewal application is in line with the Committee's previous decisions.

11.4 There is no public comment received regarding the application.

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

12.1 Based on the assessments made in paragraph 11, the Planning Department considers that the temporary use under application could be tolerated for a period of three years.

12.2 Should the Committee decide to approve the application, it is suggested that the planning permission shall be valid on a temporary basis for a period of three years, and be renewed from 30.7.2022 until 29.7.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) the submission of fire service installations proposal within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 30.1.2023;
- (b) in relation to (a) above, the implementation of the fire service installations within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 30.4.2023; and
- (c) if the above planning condition (a) or (b) is not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

### Advisory Clauses

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

12.3 There is no strong reason to recommend rejection of the renewal 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 period of which the permission should be valid on a temporary basis.

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 26.5.2022
<b>Appendix Ia</b>	FI received on 23.6.2022
<b>Appendix II</b>	Relevant extract of 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)
<b>Appendix III</b>	Previous applications
<b>Appendix IV</b>	Similar applications
<b>Appendix V</b>	Government departments' general comments
<b>Appendix VI</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Location plan submitted by the applicant
<b>Drawing A-2</b>	Layout plan submitted by the applicant
<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 A4-b</b>	Site photos

**PLANNING DEPARTMENT  
JULY 2022**