

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-PK/302

- Applicant** : Realia Investments Limited represented by Prudential Surveyors (Hong Kong) Limited
- Premises** : 1/F, R/F and adjoining land, No. 112 and 113, Pak Sha Wan, Sai Kung, New Territories
- Floor Area** : About 164.51m²
- Lease** : (a) Lots 1055 and 1056 in D.D. 217, held under New Grant No. 3171 subject to G.N.364 of 1934 as amended by G.N.50 of 1940
(b) Development shall not exceed two storeys
- Plan** : Approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No. S/SK-PK/11
- Zoning** : “Village Type Development” (“V”) [restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Eating Place for a Period of Five Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use an entire existing New Territories Exempted House (NTEH) in Pak Sha Wan and its adjoining area for temporary eating place for a period of five years. The application premises are located on the 1/F, R/F of the NTEH and the adjoining land outside the NTEH (the Premises) which fall within an area zoned “V” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Eating Place’¹ is a Column 2 use in “V” zone which requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises are located in Pak Sha Wan to the west of Hiram’s Highway (**Plans A-1 to A-3**). It is directly accessible via a footpath branching off the road. According to the applicant, the total floor area for the use of eating place is 164.51m², which includes 142.32m² (75.74m² for 1/F including the balcony and

¹ ‘Eating Place’ on ground floor of a NTEH in “V” zone is always permitted.

66.58 m² for roof) of the NTEH and 22.19m² for the area adjoining the NTEH. The total building height of the NTEH is 6.93m.

- 1.3 According to the applicant, the opening hours will be from 10 a.m. to 10 p.m. daily, including public holiday. A maximum of 58 visitors at one time will be accommodated at the proposed eating place. No parking and loading/unloading (L/UL) spaces will be provided for the eating place.
- 1.4 The site plan, floor plans and elevation plan submitted by the applicant are at **Drawings A-1 to A-5**.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with Supplementary Planning Statement (**Appendix I**) (SPS) received on 29.10.2024
 - (b) Further Information (FI) received on 11.12.2024* (**Appendix Ia**)
**accepted and exempted from publication and recounting requirements*

2. Justifications from the Applicant

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

- (a) the proposed use is not incompatible with the surrounding land uses which are predominantly residential dwellings with some of the ground floor premises occupied for commercial purposes;
- (b) the proposed use, which is conveniently located at the fringe of the village area and adjacent to the recreational uses and tourist attraction spots such as The Pier Hotel and Hebe Haven Yacht Club, will serve as a meeting place for social gathering of the villagers and cater both local and visitors' demand for eating place;
- (c) the proposed use will not create adverse traffic, visual and sewerage impacts to the surrounding areas and the applicant or restaurant operator will follow relevant government guidelines and ordinance;
- (d) the Premises have been occupied as a restaurant since around 2001, which is a long established use in the area and the application would not set undesirable precedent; and
- (e) the proposed use is temporary in nature and it would not permanently reduce the land area available for village type development. As the Premises are currently vacant, the proposed use would also help better utilise land resources.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is the sole "current land owner" of the Premises. Detailed information would be deposited at the meeting for Members' inspection.

4. Town Planning Board Guidelines

The 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) is relevant to the application. The relevant planning criteria are summarized at **Appendix II**.

5. Background

The Premises are currently not subject to any active planning enforcement action.

6. Previous Application

6.1 The Premises are the subject of one previous application No. A/SK-PK/103 submitted by a different applicant for a restaurant use at 1/F of the NTEH. The application was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 12.1.2001, mainly on the considerations that the application was generally in line with TPG PG-No.15A; catering services could be provided to complement the recreation and tourist activities in the area; not having adverse impact on traffic, environment and sewerage infrastructure provisions of the area; and the proposal was acceptable from fire safety point of view. However, the Committee considered that temporary approval instead of permanent planning permission should be granted so as to retain planning control on the development at the application site and to cater for changing circumstances in future. Taking into account the application site was then vacant and time was required for construction of the subject NTEH, a five-year temporary approval was given to the application by the Committee. The planning approval lapsed on 12.1.2006.

6.2 Details of the previous application are at **Appendix III** and its location is shown on **Plans A-1 and A-2**.

7. Similar Application

There is no similar application within the same “V” zone on the OZP.

8. The Premises and Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3, and site photos on Plans A-4a to A-4c)

8.1 The Premises are:

- (a) located on 1/F and R/F of a vacant two-storey NTEH and its adjoining area;
- (b) accessible via a footpath branching off Hiram’s Highway which is about 10m to its east; and

(c) within the Village ‘Environs’ of Kau Sai San Tsuen.

8.2 The subject NTEH has two storeys and the whole building is currently vacant.

8.3 The surrounding areas are predominantly single to three-storey village type houses with various commercial activities including restaurants and shops are observed on the ground level. Kau Sai San Tsuen Village Office is located at the immediate south of the subject NTEH. There are two open metered car parks near the Premises including one located to its northeast and another one located to the further east on the opposite side of Hiram’s Highway. The Pier Hotel and a public pier, and the Hebe Haven Yacht Club are located to the southeast and further northeast of the Premises on the opposite side of Hiram’s Highway respectively.

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 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 IV and V** respectively.

11. Public Comment Received During Statutory Publication Period

On 8.11.2024, the application was published for public inspection. During the statutory publication period, no public comment was received.

12. Planning Considerations and Assessments

12.1 The application is for the proposed temporary eating place for a period of five years at the Premises which fall within the “V” zone on the OZP (**Plan A-1**). While the proposed temporary eating place is not entirely in line with the planning intention of the “V” zone, the applicant indicates that the proposed use aims to serve the demand for eating place from nearby villagers and tourists. According to the District Lands Officer/ Sai Kung, Lands Department (DLO/SK, LandsD), there is

still land available to meet the outstanding Small House applications³ and he has no objection to the subject application. Approval of the application on a temporary basis for a period of five years would not jeopardise the long-term planning intention of the “V” zone.

- 12.2 The application is in line with the relevant assessment criteria set out under TPB PG-No.15A (**Appendix II**), in that the Premises are located at the fringe of the “V” zone and directly accessible from Hiram’s Highway. The Premises are also located close to recreational uses and tourist attraction spots, e.g. The Pier Hotel and the Hebe Haven Yacht Club, and favourable consideration could be given to the proposed eating place for providing catering facilities to serve the visitors and tourists. While no parking and L/UL spaces are provided, there are two metered parking and open-air car park which are conveniently located in the vicinity of the Premises (**Plans A-2 and A-3**). In accordance with TPB PG-No. 15A, a shorter approval period of three years, instead of five years sought, is recommended for a proposed eating place in “V” zone under normal circumstances so as to retain planning control on the development at the Premises and to cater for changing circumstances in future.
- 12.3 Given its small scale, the proposed use is considered not incompatible with the surrounding land uses which are mainly village type houses with various commercial activities, e.g. restaurants and shops, on the ground level. Relevant government departments consulted, including the Director of Environmental Protection, Commissioner for Transport, Chief Engineer/Mainland South of Drainage Services Department, Director of Fire Services and Director of Food and Environmental Hygiene have no objection to or no adverse comment on the application from environmental, traffic, drainage, fire safety and food and environmental hygiene aspects respectively.
- 12.4 The Premises are the subject of an approved application No. A/SK-PK/103 submitted by a different applicant for restaurant use which was approved by the Committee on 12.1.2001 for a period of five years. Approval of the current application is in line with the previous decision of the Committee.

13. **Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12, Planning Department has no objection to the proposed temporary eating place for a period of three years instead of five years as sought by the applicant.
- 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 three years until 20.12.2027.

³ According to DLO/SK, LandsD, there are 11 outstanding Small House (SH) applications in Kau Sai San Tsuen, while the 10-year SH demand forecast is 62. Based on the latest estimate by Planning Department, about 0.58ha of land (equivalent to about 23 SH sites) is available within the “V” zone of Kau Sai San Tsuen.

Advisory Clauses

The Recommended Advisory Clauses are attached at **Appendix V**.

- 13.3 Alternatively, should the Board 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 "Village Type Development" zone which 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. There is no strong 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

Appendix I	Application Form with SPS received on 29.10.2024
Appendix Ia	FI received on 11.12.2024
Appendix II	Relevant extracts of TPB PG-No. 15A
Appendix III	Previous application
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Drawing A-1	Site Plan
Drawings A-2 to A-4	Floor Plans
Drawing A-5	Elevation Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4c	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2024**