

# **TOWN PLANNING BOARD**

**TPB Paper No. 10810  
For Consideration by  
the Town Planning Board on 25.2.2022**

**REVIEW OF APPLICATION NO. A/K1/261  
UNDER SECTION 17 OF THE TOWN PLANNING ORIDNANCE**

**Renewal of Planning Approval for Temporary Eating Place (Restaurant) for  
a Period of Two Years at B/F (Portion) and G/F (Portion), Hong Kong Scout Centre,  
8 Austin Road, Tsim Sha Tsui, Kowloon**

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**1. Background**

1.1 On 8.9.2021, the applicant, China Enviro Enterprises Limited represented by Fotton Surveyors Limited, sought planning permission for the renewal of planning approval for temporary eating place (restaurant) for a period of 2 years at B/F (Portion) and G/F (Portion), Hong Kong Scout Centre, 8 Austin Road, Tsim Sha Tsui (the Premises) under section 16 of the Town Planning Ordinance (the Ordinance) (the s.16 application). The Premises falls within an area zoned “Government, Institution or Community” (“G/IC”) on the approved Tsim Sha Tsui Outline Zoning Plan (OZP) No. S/K1/28 (**Plan R-1**). According to the Notes of the OZP for the “G/IC” zone, ‘Eating Place’ except canteen and cooked food centre is a Column 2 use, which requires planning permission from the Town Planning Board (the Board).

1.2 On 29.10.2021, the Metro Planning Committee (MPC) of the Board decided to reject the s.16 application and the rejection reason was:

the applicant fails to demonstrate that no suitable Government, institution and community (GIC) uses can be accommodated in the application premises. The proposed continuous use of the premises for ‘Eating Place (Restaurant)’ within “G/IC” zone would jeopardise the provision of GIC facilities serving the needs of the local residents and/or a wider district.

1.3 For Members’ reference, the following documents are attached:

- |     |  |                    |
|-----|--|--------------------|
| (a) | MPC Paper No. A/K1/261                                   | ( <b>Annex A</b> ) |
| (b) | Extract of minutes of the MPC meeting held on 29.10.2021 | ( <b>Annex B</b> ) |
| (c) | Secretary of the Board’s letter dated 12.11.2021         | ( <b>Annex C</b> ) |

**2. Application for Review**

On 2.12.2021, the applicant applied, under section 17(1) of the Ordinance, for a review of the MPC’s decision to reject the s.16 application (**Annex D**). The applicant has not provided any written representation in support of the review application.

### **3. The Section 16 Application**

#### **The Premises and its Surrounding Areas (Plans R-1 to R-4)**

- 3.1 The situation and characteristic of the Premises and its surrounding areas at the time of the consideration of the s.16 application by the MPC were described in paragraph 8 of **Annex A**. There has been no material change of the situation and characteristic since then. The Premises is still occupied by a restaurant.

#### **Planning Intention**

- 3.2 There has been no change of the planning intention of the concerned “G/IC” zone on the OZP, which was mentioned in paragraph 9 of **Annex A**.

#### **Town Planning Board Guidelines**

- 3.3 The Town Planning Board Guidelines No. 16 (TPB PG-No. 16) for ‘Application for Development/Redevelopment within “G/IC” Zone for Uses other than GIC Uses under Section 16 of the Town Planning Ordinance’ and No. 34D (TPB PG-No. 34D) for ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’, which were relevant to the consideration of the s.16 application, remain valid and relevant to the review application. The relevant assessment criteria of the Guidelines were summarised at paragraph 4 of **Annex A**.

#### **Previous Applications**

- 3.4 The previous applications at the time of the consideration of the s.16 application were mentioned in paragraph 6 of **Annex A**. Since then, no additional previous application has been considered by the MPC.

#### **Similar Application**

- 3.5 The similar application at the time of the consideration of the s.16 application was mentioned in paragraph 7 of **Annex A**. Since then, no additional similar application has been considered by the MPC within the Tsim Sha Tsui area.

### **4. Comments from the Relevant Government Bureau/Departments**

- 4.1 Comments on the s.16 application made by relevant Government bureau/departments (B/Ds) were stated in paragraph 10 of **Annex A**.
- 4.2 For the review application, the following Government B/Ds have no further comments and maintain their previous views on the s.16 application as stated in paragraph 10.1 of **Annex A**, which are recapitulated as follows:

### Policy Perspective

#### 4.2.1 Comments of the Secretary for Home Affairs (SHA):

The Home Affairs Bureau is the policy bureau supporting the private treaty grant for development of the Hong Kong Scout Centre (HKSC). He has no in-principle objection to the application subject to the views of other relevant B/Ds.

### Land Administration

#### 4.2.2 Comments of the District Lands Officer/Kowloon West, Lands Department (DLO/KW, LandsD):

- (a) the concerned building falls within KIL 10973 which is held under Conditions of Grant No. 12085 dated 9.1.1990 as varied or modified by a Modification Letter dated 7.4.1995 and a No Objection Letter dated 31.1.1997 (hereafter collectively referred to as 'the Conditions'). Special Condition (S.C.) No. (6) of the Conditions stipulates that the Grantee of the lot shall not erect or maintain on the lot any building or buildings other than the building or buildings comprising:
  - (i) a headquarters for the Scout Association of Hong Kong (SAHK) including assembly hall, gymnasium, offices, scout shop, hostel, dormitory, canteen, staff quarters and such other ancillary accommodation and facilities as shall be approved by Director of Social Welfare (hereafter referred to as 'the Scout Headquarters');
  - (ii) a bus terminus having a gross floor area (GFA) of not less than 2,300m<sup>2</sup>;
  - (iii) a telephone exchange including ancillary offices as shall be approved by the Director of Lands having a GFA of not less than 9,000m<sup>2</sup>; and
  - (iv) a multi-storey vehicle park;
- (b) S.C. No. (8)(a) of the Conditions also stipulates that 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 accommodation for the Scout Headquarters, the Bus Terminus, the Telephone Exchange and the Vehicle Park; and
- (c) after the applicant had obtained the Board's permission for its previous planning application (No. A/K1/255), a temporary waiver to permit restaurant use at the Premises was approved by the LandsD for a fixed term of three years commencing on 1.3.2015 and thereafter quarterly subject to payment of waiver fee. The temporary use for eating place is permitted under the said waiver.

### Traffic

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

- (a) he has no comment on the application from the traffic engineering viewpoint;
- (b) it is noted that the application is for the renewal of a previous application No. A/K1/259 and no complaint about traffic caused by operation of the subject eating place has been received so far; and
- (c) according to the Hong Kong Planning Standards and Guidelines, 0.5 to 1 car parking space per 200m<sup>2</sup> GFA of conference and banquet facilities is required. Given that the subject eating place has a GFA of 1,977m<sup>2</sup>, 10 car parking spaces have been provided to fulfil the high-end requirement.

### Environment

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

- (a) he has no objection to the application from the environmental perspective;
- (b) based on the information provided by the applicant, it is noted that the application is not expanding the capacity of the existing restaurant and there will be no change from the last approval with the same operation hours and seating capacity. Sewage will be discharged to the same sewerage system as per current configuration; and
- (c) the applicant should ensure compliance with the requirements of relevant pollution control ordinances and guidelines. In particular, the applicant should implement the best practical control measures as set out in the 'Control of Oily Fume and Cooking Odour from Restaurants and Food Business' to minimise the oily fume and cooking odour emission.

### Fire Safety

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

he has no in-principle objection to the application provided that the fire service installations and equipment installed thereat are properly maintained.

### Other Aspects

#### 4.2.6 Comments of the Director of Social Welfare (DSW):

- (a) the Premises are privately owned by the SAHK with its headquarters and hostels located atop. The existing restaurant has been in operation at the Premises for many years and there is no natural lighting/ventilation in view of the disposition of the Premises; and
- (b) the proposed renewal of planning permission for the temporary eating place (restaurant) is outside the purview of the Social Welfare Department (SWD). That said, should the Board decide to reject the application and SAHK agree to reserve the Premises for other GIC facilities to serve the community, SWD would like to propose setting up welfare facilities (i.e. Home Care Services for Frail Elderly Persons and Community Rehabilitation Day Centre) in the Premises taking into account the welfare services need of the district.

4.3 The following Government departments maintain their previous views of having no objection to/no comment on the s.16 application as stated in paragraph 10.2 of **Annex A**:

- (a) Chief Building Surveyor/Kowloon, Buildings Department (CBS/K, BD);
- (b) Chief Engineer/Kowloon, Water Supplies Department (CE/K, WSD);
- (c) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (d) Chief Highway Engineer/Kowloon, Highways Department (CHE/K, HyD);
- (e) Commissioner of Police (C of P);
- (f) Director of Food, Environment and Hygiene (DFEH);
- (g) Director of Leisure and Cultural Services (DLCS);
- (h) District Officer (Yau Tsim Mong), Home Affairs Department (DO(YTM), HAD); and
- (i) Government Property Administrator (GPA).

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

5.1 During the statutory public inspection period, three objecting comments submitted by the TST Residents Concern Group and two individuals were received (**Annex E**). Their views can be summarised as follows:

- (a) there are urgent needs of community facilities and the Premises is overdue for provision of GIC spaces. SAHK should provide community services at the Premises to help address the shortfall in the provision of GIC facilities in the Tsim Sha Tsui area;
- (b) when considering to approve the last s.16 and s.17 review applications, sympathetic consideration was given in view of the enormous hardship faced by businesses, particularly the challenges brought by the coronavirus outbreak and the lead time required for turning the Premises into GIC use. However, the circumstances had changed and the application should not be supported as the epidemic situation had recently stabilised and suitable GIC facilities had been recommended by SWD for the Premises;

- (c) there were ample Premises suitable for restaurant use in the area. The claim that the restaurant provided cheap eating services to the elderly was not a relevant planning consideration. The continuous occupation of the Premises by the restaurant was not justified; and
  - (d) the MPC had repeatedly advised SAHK to explore accommodating other GIC uses at the Premises. However, no effort had been demonstrated by SAHK to address the concern of the MPC over the years. The continuous occupation of the Premises since 2016 was not justified. Extension of commercial use should not be allowed.
- 5.2 At the s.16 application stage, a total of four public comments (three objecting to the application and one related to an enquiry of general information) were received. Details of these comments were set out in paragraph 11 of **Annex A**.

## **6. Planning Considerations and Assessments**

- 6.1 The application is for a review of MPC's decision on 29.10.2021 to reject the s.16 application for the renewal of planning approval for temporary eating place (restaurant) for a period of 2 years at the Premises, which falls within "G/IC" zone on the OZP. The proposed development has a total GFA of about 1,977m<sup>2</sup> (including 52m<sup>2</sup> at G/F and 1,925m<sup>2</sup> at B/F). The main pedestrian access to the Premises is via the staircases at G/F fronting Austin Road while the Premises could also be accessed via two lifts (serving between B/F and 5/F) at the G/F lobby of the HKSC. According to the applicant, the scale and operation of the temporary eating place (restaurant) under the current application is the same as the previously approved scheme under application No. A/K1/259.
- 6.2 As mentioned in paragraph 1.2 above, the application was rejected by the MPC on the reason that the applicant fails to demonstrate that no suitable GIC uses could be accommodated in the application premises. The proposed continuous use of the premises for 'Eating Place (Restaurant)' within "G/IC" zone would jeopardise the provision of GIC facilities serving the needs of the local residents and/or a wider district.
- 6.3 No written representation has been provided by the applicant in support of the review application and there has been no material change in the planning circumstances since the consideration of the s.16 application by the MPC on 29.10.2021. As such, the planning considerations and assessments set out in paragraph 12 of **Annex A** remain valid, and that there is no new planning consideration to those submitted to and considered by the MPC resulting in its decision to reject the application. The planning considerations and assessments of the s.16 application are recapped and outlined in the following paragraphs for Members' reference:
- (a) for the latest approved Application No. A/K1/259, the MPC approved for a period of one year, instead of three years sought, in order to encourage the SAHK to explore the possibility of accommodating other GIC uses at the Premises. The MPC also agreed to advise the SAHK that the renewal was

the last renewal and no further renewal of approval would be given. The applicant subsequently applied for a review to request for a longer approval period of the application. Upon review by the Board on 13.3.2020, an approval period of two years (from 10.12.2019 to 9.12.2021) was granted on grounds that the temporary eating place should be given with sympathetic consideration for a slightly longer approval period in view of the enormous hardship faced by businesses, particularly the challenges brought by the coronavirus outbreak and the lead time required for turning the Premises into GIC use. In the deliberation, Members of the Board were generally of the view that despite the Premises being located in a basement level, there was scope to provide other types of GIC facilities or services in the Premise to serve the local community as well as wider district;

- (b) since the approval of the previous application, so far, we are not aware of that SAHK has approached relevant B/Ds in respect of the Board's concern. While the current application is submitted by the operator of the restaurant, instead of SAHK, there is not much information provided in the submission to address the concerns of the MPC and the Board. As such, it is considered that the applicant fails to demonstrate that there are no suitable GIC uses for the Premises;
  - (c) having considered the location of the Premises, DSW indicates that two welfare facilities (i.e. Home Care Services for Frail Elderly Persons and Community Rehabilitation Day Centre) are suitable to be accommodated in the Premises to serve needs of the district. In view of the above, the continuous occupation of the Premises by the restaurant may deprive other GIC uses at the Premises, and thus, jeopardise the provision of GIC facilities to serve the community. In this regard, the proposed renewal is not in line with the TPB PG-No. 16; and
  - (d) although there has been no material change in planning circumstances since the previous temporary approval was granted and the approval period of two years sought is no longer than the original validity period of the temporary approval, the Board had expressed clear intention that the approval of the previous review application was to allow time required for turning the Premises into GIC uses. The approval of the renewal application for continuing restaurant use within "G/IC" zone will have adverse planning implications as mentioned in paragraph 6.3(c) above. As such, the proposal renewal is not in line with the TPB PG-No. 34D.
- 6.4 For the review application, the relevant Government B/Ds further consulted, including SHA, C for T, DEP, D of FS, DLO/KW, LandsD and DSW, either have no further comments on the review application and maintain their previous views on the s.16 application or maintain their previous views of having no objection to/no comment on the s.16 application.
- 6.5 Regarding the public comments received, the planning assessments as set out in paragraphs 12.1 to 12.6 of **Annex A**, paragraphs 6.1 to 6.4 above, and the departmental comments in paragraph 4 above are relevant.



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

- 7.1 Based on the assessments made in paragraph 6 above, having taken into account the public comments mentioned in paragraph 5, and given that there has been no material change in the planning circumstances since the consideration of the s.16 application by the MPC on 29.10.2021, the Planning Department maintains its previous view of not supporting the review application for the following reason:

the applicant fails to demonstrate that no suitable Government, institution and community (GIC) uses could be accommodated in the application premises. The proposed continuous use of the premises for 'Eating Place (Restaurant)' within "G/IC" zone would jeopardise the provision of GIC facilities serving the needs of the local residents and/or a wider district.

- 7.2 Alternatively, should the Board decide to approve the review application, it is suggested that the permission shall be valid on a temporary basis for a period of 2 years until 25.2.2024.

- 7.3 The recommended advisory clauses are attached at **Annex F**.

## **8. Decision Sought**

- 8.1 The Board is invited to consider the application for a review of the MPC's decision and decide whether to accede to the application.
- 8.2 Should the Board decide to reject the review application, Members are invited to advise what reason(s) for the rejection should be given to the applicant.
- 8.3 Alternatively, should the Board decide to approve the review 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.

## **9. Attachments**

<b>Annex A</b>	MPC Paper No. A/K1/261
<b>Annex B</b>	Extract of minutes of the MPC meeting held on 29.10.2021
<b>Annex C</b>	Secretary of the Board's letter dated 12.11.2021
<b>Annex D</b>	Letter from the applicant's representative dated 2.12.2021 applying for a review of MPC's decision
<b>Annex E</b>	Public Comments
<b>Annex F</b>	Recommended Advisory Clauses
<b>Plan R-1</b>	Location Plan
<b>Plan R-2</b>	Site Plan
<b>Plans R-3 to R-4</b>	Site Photos