

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/H7/174

- Applicant** : Bank of East Asia (Trustees) Limited represented by Urbantraces Limited
- Premises** : G/F (part), 17 Yuk Sau Street, Happy Valley, Hong Kong
- Total Floor Area of Premises** : About 141m²
- Land Status** : Inland Lot (IL) 2914 Section A
- Restricted for houses of an European type with non-offensive trades clause
- Plan** : Approved Wong Nai Chung Outline Zoning Plan (OZP) No. S/H7/19
- Zoning** : “Residential (Group B)” (“R(B)”)
- maximum building height (BH) of 100mPD or the height of the existing building, whichever is the greater
- Application** : Proposed Shop and Services/ Eating Place

1. The Proposal

- 1.1 The applicant seeks planning permission to convert a vacant premises on G/F (the premises) of 17 Yuk Sau Street (the Site) for the proposed shop and services or eating place uses (**Drawing A-1**). The premises falls within an area zoned “R(B)” on the approved Wong Nai Chung OZP No. S/H7/19 (**Plans A-1 and A-2**). According to the Notes of the OZP, planning permission from the Town Planning Board (the Board) is required for ‘Shop and Services’ and ‘Eating Place’ within the subject “R(B)” zone.
- 1.2 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 6.12.2017 (Appendix I)
 - (b) Applicant’s letter dated 17.1.2018 requesting deferment of consideration of the application (Appendix Ia)
 - (c) Applicant’s letter dated 7.3.2018 providing further information in response to departmental comments (Appendix Ib)

[accepted and exempted from publication and recounting requirement.]

- 1.3 The floor plans of the proposed shop and services/eating place (the proposed uses) submitted by the applicant is at **Drawings A-2 and A-3**. The applicant has proposed two schemes:

	For Shop and Services	For Eating Place
Components	Four Shop & Services Areas	Two Seating Areas and Two Food Rooms
Usable Area	96m ² *	69m ² #
Maximum no. of occupants	32 [@]	69 [^]

* After discounting the fire escape path and toilet areas

After discounting the fire escape path, food rooms (kitchen) and toilet areas

@ According to the Code of Practice for Fire Safety in Buildings 2011 (FS Code), the occupant capacity in relation to the provision of means of escape (MoE) is 1 person for every 3m² of usable floor area for retail shop on G/F

^ According to FS Code, the occupant capacity in relation to the provision of MoE is 1 person per m² of usable floor area for eating place

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the application form (**Appendix I**) and further information (**Appendix Ib**). They can be summarised as follows:

- (a) the proposed uses are compatible with the surroundings as there are 10 commercial entities occupying about 50% of the frontage of Yuk Sau Street;
- (b) the traffic impact of the proposed uses with floor area of about 141m² is very minor. The 99 nos. of on-street metered parking spaces and the multi-storey carpark at Sing Woo Road with 2-storey of public fee-paying carpark, which is normally not fully occupied, are about 200m from the premises (**Drawing A-4**);
- (c) the proposed uses are the possible uses under Column 2 of the subject "R(B)" zone which allowed flexibility to serve the neighborhood;
- (d) there would be no adverse physical and visual impact to the building at the Site and the graded buildings in the vicinity. There would be no substantial change of the existing elevations of the building, except possible minor and localise modification of existing front entrance along Yuk Sau Street for barrier free access and one window at the back elevation at ground level for fulfilling the statutory requirement on means of fire escape in case of fire; and
- (e) the proposed eating place/shop and services would not be operated during night time (i.e. 2300-0700).

3. **Compliance with the “Owner’s Consent/Notification” Requirements**

The applicant is the sole “current land owner”. Detailed information will be deposited at the meeting for Members’ inspection.

4. **Previous Application**

There is no previous application in respect of the premises.

5. **Similar Application**

5.1 There is no similar application for ‘Shop and Services’ or ‘Eating Place’ uses within “R(B)” zone in the Wong Nai Chung OZP Planning Area in the past 10 years. However, there were 5 similar applications (4 approved and 1 rejected) for ‘Shop and Services’ or ‘Eating Place’ involving 7 Shan Kwong Road (Zenith Mansion) before then (**Plan A-1**). All the approved applications (Nos. A/H7/70, A/H7/76, A/H7/81 and A/H7/129) were for regularisation of the existing retails shops on G/F of Zenith Mansion and they were approved/approved with conditions by the Board on 23.8.1991, 20.9.1991, 6.3.1992 and 24.11.2000 respectively. The rejected application (No. A/H7/131) was for a proposed eating place (restaurant) within portion of the garage and car parking spaces on G/F of Zenith Mansion. It was rejected by the Board on 2.2.2001 on the grounds that the proposed restaurant might generate environment nuisance and affect the living environment of the subject building and those nearby. The Board also considered that the approval of the application might set an undesirable precedent for attracting similar applications within the area. The cumulative impact of approving similar applications would adversely affect the residential character and the living environment of this area within the “R(B)” zone.

5.2 There was also a planning application (No. A/H7/166) for a proposed temporary shop and services (fast food shop) on G/F of 14 Tsun Yuen Street, which was approved with conditions by the Metro Planning Committee (the Committee) of the Board on 27.6.2014 on the consideration that the proposed use was not incompatible with the surrounding land uses and there were no adverse comments on technical aspects (**Plan A-1**).

6. **The Premises and Its Surrounding Areas (Plans A-1 to Plan A-4)**

6.1 The premises is:

- (a) located at part of the G/F of 17 Yuk Sau Street, which is a 3-storey pre-war residential building; and
- (b) currently vacant.

6.2 The surrounding areas have the following characteristics:

- (a) the remaining floors, i.e. 1/F and 2/F of 17 Yuk Sau Street, is currently vacant;
- (b) Yuk Sau Street is a one-way single-lane local road with on-street metered public parking spaces. The western and eastern portions of Yuk Sau Street are zoned “R(B)” and “Residential (Group A)” (“R(A)”) respectively;
- (c) the “R(B)” zone where the premises located is mainly occupied by pure residential developments, except for a cluster of commercial uses on the ground floor of Zenith Mansion, which is located at the southwest corner of the subject “R(B) zone (**Plan A-2**);
- (d) the “R(A)” zone along the eastern portion of Yuk Sau Street is occupied by residential developments with commercial uses on the ground floor. Within the “R(A)” zone, 11 Yuk Sau Street is a Grade 3 Historic Building graded on 17.5.2010;
- (e) to the immediate east of the premises at 15 Yuk Sau Street is a Grade 2 Historic Building graded on 18.12.2009;
- (f) Wong Nai Chung Municipal Services Building, zoned “Government, Institution or Community”, is located at the junction of Yuk Sau Street and Sing Woo Road to the further east of the premises; and
- (g) the neighbourhood is mainly served by bus, minibus and tram.

7. **Planning Intention**

The “R(B)” zone is intended primarily for medium-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

8. **Comments from Relevant Government Departments**

- 8.1 The following government departments have been consulted and their views on the application are summarized as follows:

Land Administration

- 8.1.1 Comments of the District Lands Officer/Hong Kong East, Lands Department (DLO/HKE, LandsD):

- (a) the premises falls within Section A of IL No. 2914. IL No. 2914 is held under Government Lease (“Lease”) which is restricted for houses of an European type and the non-offensive trade clause; and
- (b) the provision of eating place within the existing premises would be in breach of the non-offensive trade clause under the Lease. Should the Committee approve the application and there is

provision of eating place within the premises, the owner is required to apply to his Office for a Licence to permit the proposed eating place use under the Lease. However, there is no guarantee that such Licence application will be approved and if approved by LandsD, acting in its capacity as the landlord at its discretion, it will be subject to such terms and conditions, including payment of appropriate fee, as imposed by LandsD.

Building Matters

8.1.2 Comments of the Chief Building Surveyor/Hong Kong East and Heritage, Buildings Department (CBS/HKE&H, BD):

- (a) there is no in-principle objection to the application subject to the demonstration of compliance with the Buildings Ordinance (BO), including but not limited to:
 - (i) adequate MoE should be provided to the subject premises and the floor above in accordance with Building (Planning) Regulation (B(P)R) 41(1) and FS Code. Required staircases from the upper floors should be continued at G/F as to separate from the remainder of the building as per required under Clause B9.1 of FS Code and widths of the exit routes provided as per Subsections B7, B8 and B9 of FS Code;
 - (ii) the premises should be separated from the remaining portion of the building by fire barriers of adequate fire resistance rating pursuant to Building (Construction) Regulation (B(C)R) 90 and FS Code;
 - (iii) access and facilities for persons with a disability should be provided in accordance with B(P)R 72 and the Design Manual: Barrier Free Access 2008 (BFA Manual);
- (b) detailed comments under BO could only be provided at the building plans submission stage; and
- (c) since the subject building is a pre-war building and there is no relevant record kept by his department, all details and information in relation to the existing building and the proposal should be verified by the applicant and/or the building professional appointed.

Architectural and Visual Aspect

8.1.3 Comments of the Chief Architect/Central Management Division 2 (CA/CMD2, ArchSD):

- (a) the proposal involves change in use from residential to 'Shop and Services' or 'Eating Place', and there are no changes to the overall building height and massing. In this regard, he has no comment from the visual impact point of view; and

- (b) for female toilet, openable window with natural lighting and ventilation complying B(P)R 36 shall be provided.

Heritage Conservation

8.1.4 Comments of the Director of Leisure and Cultural Services (DLCS) (Antiquities and Monuments Office (AMO)):

- (a) the building at the Site has been included in the “List of New Items for Grading Assessment”. DLCS will follow the prevailing grading mechanism to assess the heritage value of the building. In addition, the premises is in close proximity to two graded buildings (i.e. a Grade 2 historic building for residential use at No. 15 Yuk Sau Street and a Grade 3 historic building at No. 11 Yuk Sau Street, a private photography museum) (**Plan A-2**);
- (b) the application proposes to change the ground floor of the building from residential use to ‘Shop and Services’ or ‘Eating Place’ uses. While the use(s) of the other floors of the building as well as detailed works proposals of the application are not available at this stage for detailed assessment, the applicant should ensure that no adverse impact, both physically and visually, should be caused to the building (including other floors of the building), as well as the graded buildings in the vicinity and the ambience of the cluster of grading buildings; and
- (c) DLCS reserves further comments from the heritage conservation perspective on the works arising from the proposed use of the ground floor, if the subject application is approved, as well as the impacts of the works on the two graded buildings at Nos. 11 and 15 Yuk Sau Street and the ambience to the cluster of graded buildings. The applicant is required to consult Antiquities and Monuments Office on their detailed works proposal on the proposed use of the ground floor prior to the commencement of works.

Traffic

8.1.5 Comments of the Commissioner for Transport (C for T):

no objection to the application in view of the minimal traffic impact arising from the proposed shop and services/eating place with an area of 141m² at part of G/F of the existing building.

Environment

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

- (a) no comment on the application;

- (b) understands from the applicant that the proposed eating place/shop and services would not be operated during night time (i.e. 2300-0700);
- (c) to minimise the noise impact and the cooking fumes nuisance from the proposed eating place during operation, the future owner is reminded to:
 - (i) observe the Hong Kong Planning Standards and Guidelines (HKPSG) noise criteria (Table 4.1, Chapter 9 of HKPSG) and the Noise Control Ordinance (NCO) to minimise the noise impact from the proposed restaurant; and
 - (ii) observe the Air Pollution Control Ordinance (APCO) to minimise the potential cooking fume nuisance generated by the possible uses (such as kitchen, etc), if any, affecting the nearby air sensitive receivers.

Licensing

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

- (a) no specific view on the application provided that:
 - (i) the operation of any eating place should be under a food licence issued by the Food and Environmental Hygiene Department (FEHD). If the operator intends to operate a food business in the territory, a relevant food licence (such as a general restaurant/light refreshment restaurant licence) should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132). The application for restaurant licence, if acceptable by FEHD, will be referred to relevant government departments, such as BD, Fire Services Department and Planning Department 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) any person who desires to keep or use any place of public entertainment for example a theatre and cinema or a place, building, erection or structure, whether temporary or permanent, on one occasion or more, capable of accommodating the public presenting or carrying on public entertainment within Places of Public Entertainment (PPE) Ordinance (Cap. 172) and its subsidiary legislation, such as a concert, opera, ballet, stage performance or other musical, dramatic or theatrical entertainment, cinematograph or laser projection display or an amusement ride and mechanical device which is

designed for amusement. A place of public entertainment licence should be obtained from FEHD whatever the general public is admitted with or without payment. The application for PPE licence, if acceptable by FEHD, will be referred to relevant government departments, such as BD, Fire Services Department and Police 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.

Fire Safety

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

- (a) no objection in principle to the application subject to fire service installations and water supplies for firefighting being provided to the satisfaction of his department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans; and
- (b) as no details of the emergency vehicle access (EVA) have been provided, comments could not be offered by his department at the present stage. Nevertheless, the applicant is advised to observe the requirements of EVA as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Building 2011 which is administered by BD.

8.2 The following government departments have no objection to/no comment on the application:

- (a) Chief Engineer/Hong Kong & Islands, Drainage Services Department;
- (b) Commissioner of Police;
- (c) Chief Engineer/Construction Division, Water Supplies Department; and
- (d) District Officer (Wan Chai), Home Affairs Department.

9. **Public Comments Received During Statutory Publication Period**

On 15.12.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 5.1.2018, one public comment from the management company of La Vogue Court (29 Village Road) (**Plan A-2**) (**Appendix II**) was received, expressing objection to the application on the grounds that the proposed eating place would bring about poor hygiene condition, noise nuisance, unpleasant smell and traffic impact to the residents of the neighborhood.

10. **Planning Considerations and Assessment**

10.1 The application is to convert a vacant premises to shop and services or eating place uses. The premises is located on G/F of 17 Yuk Sau Street,

which is zoned “R(B)” on the approved Wong Nai Chung OZP No. S/H7/19. 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 on the application to the Board. According to the applicant, the conversion of the vacant premises to a proposed eating place or shop and services use can allow flexibility to serve the neighbourhood within the area.

- 10.2 The premises is located at the periphery of the “R(B)” zone along Yuk Sau Street. While no commercial uses are found to the west of the premises, there are various shops and services as well as eating places on the ground floor of the residential developments to the east of the premises along both sides of Yuk Sau Street, which are zoned “R(A)” on the OZP. Wong Nai Chung Municipal Service Building which accommodates wet market, cooked food centre, library, government offices as well as sports and recreation facilities is located to the northeast of the premises across Yuk Sau Street. Commercial uses are also found on the ground floor of Zenith Mansion, which is located at the junction of Shan Kwong Road/Village Road to the southwest of the premises (**Plans A-2 to A-4**). From land use perspective, the proposed eating place or shops and services is considered not incompatible with the neighbourhood of the premises.
- 10.3 With regard to heritage conservation, the building at the Site has been included in the “List of New Items for Grading Assessment” and that there are two graded buildings in close proximity (**Plan A-2**). The applicant advised that there would be no adverse physical and visual impact to the building at the Site and the graded buildings in the vicinity as there would be no substantial change of the existing elevations of the building, except possible minor and localised modification of existing front entrance along Yuk Sau Street for barrier free access and one window at the back elevation on ground level to provide exit door thereby fulfilling the statutory requirement on means of fire escape in case of fire. AMO of DLCS has no objection to the application but reserved their further comments from the heritage conservation perspective on the works arising from the proposed use on ground floor should the application be approved. Other relevant government departments including TD, EPD, FSD, FEHD and BD also have no in-principle objection to or no comment on the application.
- 10.4 Concerning the public concerns on environmental hygiene, noise and odour nuisances as well as traffic impact, the planning assessments above and comments of DFEH, DEP and C for T in paragraph 9 above are relevant.

11. Planning Department’s Views

- 11.1 Based on the assessment made in paragraph 10 and having taken into account the public comment mentioned in paragraph 9, the Planning Department has no objection to the application.
- 11.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 4.5.2022, and after the said date, the permission shall cease to have effect unless prior to the said date either the development permitted is commenced or the permission is renewed. The

following condition of approval and advisory clauses are suggested for Members' reference:

Approval condition

the provision of fire service installations and water supplies for fire fighting 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**.

- 11.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection are suggested for Members' reference:

The proposed shop and services or eating place use is not in line with the planning intention of the "R(B)" zone which is primarily for medium density residential developments. Approval of the application may set an undesirable precedent for similar applications within this area and the cumulative effect of which would adversely affect the living environment of the neighbourhood.

12. **Decision Sought**

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.
- 12.3 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.

13. **Attachments**

Appendix I	Applicant form received on 6.12.2017
Appendix Ia	Applicant's letter dated 17.1.2018
Appendix Ib	Applicant's letter dated 7.3.2018
Appendix II	Public comment
Appendix III	Advisory clauses
Drawing A-1	Block plan
Drawings A-2 and A-3	Layout plans (two schemes)
Drawing A-4	Location plan of parking locations
Plan A-1	Location plan
Plan A-2	Site plan
Plans A-3 to A-5	Site photos

**PLANNING DEPARTMENT
MAY 2018**