

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K7/116

- Applicant** : Ms. YIU Shuk Bing represented by Harvest Surveyors Limited
- Premises** : G/F, 124 Waterloo Road, Kowloon
- Floor Area** : About 110m²
- Lease** : (a) Kowloon Inland Lot No. 2135 s.A ss.4 RP
- (b) 75 years commencing from 3.9.1928 and renewable for a further term of 75 years
- (c) Main restrictions include:
- residential use;
 - building height not exceeding 35 feet; and
 - non-building area of 20 feet from Prince Edward Road West.
- Plan** : Approved Ho Man Tin Outline Zoning Plan (OZP) No. S/K7/24
- Zoning** : “Residential (Group B)” (“R(B)”)
- [Maximum plot ratio (PR) of 5 and maximum building height (BH) of 80mPD, or the PR and BH of the existing building, whichever is the greater]
- Application** : Proposed School (Tutorial School)

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed tutorial school at the application premises (the Premises), which is zoned “R(B)” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘School’ not in a free-standing purpose-designed building is a Column 2 use in the “R(B)” zone and requires planning permission from the Town Planning Board (the Board/TPB). The Premises is currently vacant.

- 1.2 The Premises is located on the ground floor (G/F) of a 3-storey residential development at 124 Waterloo Road (**Plan A-2**). According to the submission, the proposed tutorial school has a floor area of about 110m² with a planned maximum capacity to accommodate 24 students, 4 teachers and 1 staff. The operation hours of the tutorial school will be from 10am to 7pm from Mondays to Saturdays, and there will be no operation on Sundays and public holidays. The entrance of the Premises on G/F abuts Waterloo Road and is separated from the entrance to the upper floors (**Plan A-4**). No parking space and loading/unloading facility has been proposed. The layout plan of the proposed tutorial school submitted by the applicant is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form and layout plan received by the (**Appendix I**) Board on 23.11.2018
 - (b) Supplementary information submitted by the (**Appendix Ia**) applicant on 28.11.2018 including a revised layout plan and a replacement page of the application form

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are provided in the application form (**Appendix I**). They are summarized as follows:

- (a) the proposed tutorial school is not incompatible with other uses within the same building. The Board has previously approved a planning application (No. A/K7/114) for school (tutorial school) within the same building at Shops 2 and 3 on the ground floor of 126 Waterloo Road. Moreover, there are more than 20 approved planning applications for school (tutorial school) use within “R(B)” zone in the vicinity;
- (b) the proposed access to the Premises would not cause disturbance or nuisance to the local residents. The proposed main entrance to the proposed tutorial school is directly at the shop front and is separated from that of the domestic portion of the building. The shop front main entrance will be able to cope with the number of students going to/from the Premises and there is no need to access the proposed tutorial school through common area of the building. The proposed access will not affect the existing means of escape provisions of the building;
- (c) Given the small scale, parking and loading/unloading facilities are not required in accordance with the requirements stipulated in the Hong Kong Planning Standards and Guidelines (HKPSG) for primary or secondary schools;
- (d) The Premises will be air-conditioned and not be affected by any noise impact from traffic outside; and
- (e) it is estimated that the students would walk to/from the Premises without generating additional traffic volume.

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. Town Planning Board Guidelines

The TPB Guidelines No. 40 for “Application for Tutorial School under Section 16 of the Town Planning Ordinance” (TPB PG-No. 40) promulgated in February 2008 is relevant to this application. The relevant main assessment criteria are summarized as follows:

- (a) the proposed tutorial school should not be incompatible with other uses within the same building. In assessing the compatibility with other uses within the same building or surrounding development, consideration will normally be given only to the permitted uses within the building(s);
- (b) to avoid causing disturbance or nuisance to the local residents, tutorial school will normally not be permitted within a residential building or the domestic portion of a composite commercial/residential building unless the proposed access to the application premises will not cause disturbance or nuisance to the local residents;
- (c) the proposed access (entrance) to the tutorial school of a residential building or the domestic portion of a composite building must be separated from that of the domestic portion of the building by way of separate stairways and/or lifts/escalators exclusively serving the tutorial school so as to minimize any disturbance to the residents in the same building. Proposed access should not affect the existing means of escape provisions of the building. Otherwise, approval of Building Authority should be obtained. For tutorial schools of a considerable scale, i.e. with 120 or more students attending classes at the same time, proper parking and loading/unloading facilities should be provided in accordance with the requirements stipulated in the Hong Kong Planning Standards and Guidelines for primary or secondary schools;
- (d) the views of the public on the proposed tutorial school will be taken into account by the Board in consideration of the application; and
- (e) the Fire Services Department (FSD) and the Buildings Department (BD) should be satisfied with the proposals to comply with the fire and building safety requirements for the proposed tutorial school.

5. Previous Application

The Premises is not the subject of any previous application.

6. Similar Applications

- 6.1 Since 2000, there are 37 similar planning applications for tutorial school use under “R(B)” zone in the Boundary Street/Prince Edward Road West neighbourhood (**Plan A-1**). Among them, 29 applications were approved with/without conditions by the Committee, including Application No. A/K7/114 at 126 Waterloo Road on the same street frontage on 20.4.2018 (**Plan A-3**), mainly for the reasons that the proposed tutorial school use was not incompatible with the other uses within the same building and the surrounding areas, and was not expected to generate adverse impacts on the surrounding areas. 8 applications were rejected mainly on the grounds of causing nuisance and security concerns to the local residents, lack of separate access to the Premises, aggregation of traffic congestion at Prince Edward Road West, and setting of undesirable precedents.
- 6.2 Details of the similar applications are summarized at **Appendix II** for Members’ reference.

7. The Premises and Its Surrounding Areas (Plans A-1 and A-2 and photos on Plans A-3 and A-4)

- 7.1 The Premises:
- (a) is currently vacant; and
 - (b) is located at G/F of an existing 3-storey residential building abutting Waterloo Road. The entrance to the Premises is via Waterloo Road and separated from the entrance to the upper floors.
- 7.2 The subject building was completed in 1955. According to the Occupation Permit of the building, the building is for domestic use. The existing uses of the building by floor (as at 8.1.2019) are summarized as follows:

Floors	Uses
G/F	The Premises , a tutorial school ^[1] and an office of a construction company ^[2]
1/F	Domestic units
2/F	Domestic units

[1] Planning application (No. A/K7/114) for school (tutorial school) use was approved with conditions by the Committee on 20.4.2018.

[2] There is no record of planning permission for such use.

- 7.3 The surrounding areas have the following characteristics (**Plan A-2**):
- (a) the subject building is located in an area mainly with low to medium-density residential developments. Some non-residential uses, such as tutorial schools,

learning centres and kindergartens, etc. can also be found in the area;

- (b) to the north across Boundary Street is Maryknoll Convent School. A number of primary and secondary schools are located in the area. To the west across Waterloo Road are St. Teresa's Church and Caritas Social Centre; and
- (c) the area is well-served by various modes of public transport, such as buses and minibuses.

8. 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.

9. Comments from Relevant Government Departments

- 9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer/Kowloon East, Lands Department (DLO/KE, LandsD):

The use of the Premises as a school (tutorial school) is in breach of the lease conditions. If the application is approved by the Board, the owner(s) will need to apply for temporary waiver of the lease restriction or lease modification under lease for the proposed use. However, there is no guarantee that the application shall be approved, and if approved by LandsD in the capacity of a landlord, it shall be subject to such terms and conditions, including the payment of wavier fee or land premium, as may be considered appropriate by LandsD.

Building Matters

- 9.1.2 Comments of the Chief Building Surveyor/Kowloon, BD (CBS/K, BD):

He has no in-principle objection to the application subject to the followings:

- (a) All building works and change of use shall in all aspects be in compliance with the Buildings Ordinance (BO) and its allied regulations;
- (b) The applicant is advised to appoint an Authorized Person to co-ordinate all building works in accordance with the BO, in particular-

- (i) the plot ratio and site coverage of the building shall not exceed that specified in the First Schedule of Building (Planning) Regulations (B(P)Rs);
 - (ii) adequate means of escape should be provided to the Premises in accordance with B(P)R 41(1) and Code of Practice for Fire Safety in Buildings 2011 (FS Code);
 - (iii) 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 90 and the FS Code; and
 - (iv) access and facilities for persons with a disability should be provided in accordance with B(P)R 72 and Design Manuel: Barrier Free Access 2008.
- (c) The proposed school is required to comply with the building safety and other relevant requirements as may be imposed by the school registration/licensing authorities;
 - (d) According to the building plans approved on 23.3.1955, the Premises is indicated for domestic use showing “Dining & Living Rm”, “Bed Rm.”, “Kitchen”, “Terrace” and “Lav.” on plans; and
 - (e) His detailed comments would be subject to submission of more detailed plans or application for the approval plans under the BO.

Traffic

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

He noted that the applicant estimated that the students will be going to the Premises on foot. As such, he has no comment on the application from traffic engineering point of view provided that the proposed tutorial school would not generate additional parking demand in the lot.

9.1.4 Comments of the Commissioner of Police (C of P):

- (a) He has no comment on the proposed use.
- (b) No adverse traffic impact is anticipated given the small scale of the proposed tutorial school. According to his record for 2018, one relevant traffic complaint (i.e. vehicle obstruction) was received at the subject location in the latter half of 2018, and one fixed penalty ticket had been issued.

Environment

9.1.5 Comments of Director of Environmental Protection (DEP):

- (a) He has no objection to the application from environmental perspective.
- (b) Based on the applicant's information on site location, proposed use and mitigation measures (i.e. air conditioning), it is noted that insurmountable environmental impacts associated with the proposed use is not anticipated.
- (c) The applicant is advised to follow the relevant requirements of the HKPSG regarding the environmental perspective.

Fire Safety

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

- (a) He has no specific comment on 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 or referral from the relevant licensing authorities.
- (b) As no details of the emergency vehicular 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 administrated by BD.

Education

9.1.7 Comments of the Secretary for Education (SED):

- (a) For school registration procedures, registration of schools is granted in accordance with the stipulated requirements under the Education Ordinance (Cap. 279) and relevant Guidelines. Clearance from the Board and LandsD should be obtained in respect of the Premises. In addition, the Premises should be suitable for school use in terms of fire safety and building safety as confirmed by the D of FS and CBS/K, BD respectively. The applicant should also submit the documentary proof of the right to use the premises, Occupation Permit (for premises designed and constructed as a school), the proposed curriculum, courses and fees information, etc. for SED's consideration.

- (b) There was no application for registration of school received.

District Officer's Comments

- 9.1.8 Comments of the District Officer (Kowloon City), Home Affairs Department (DO(KC), HAD):

He has no comment on the application. He noted that interested Kowloon City District Council (KCDC) members, Lung Tong Area Committee, Owners' Corporations (OCs), Mutual Aid Committees (MACs), management committees and residents of buildings near the Premises have been notified and invited to make comments to the Board. The Board should consider their views/comments gathered in the consultation exercise.

- 9.2 The following Government departments have no objection/comment on the application:
- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
 - (b) Chief Highway Engineer/Kowloon, Highways Department; and
 - (c) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD).

10. Public Comments Received During Statutory Publication Period

The application was published for public inspection on 30.11.2018. During the first three weeks of the statutory public inspection period, which ended on 21.12.2018, 17 public comments (**Appendix III**), mostly from the residents/owners of the neighbourhood and some of them are from the upper floors of the same building, objecting to/raising concerns on the application were received. Major views are summarized as follows:

- (a) the proposed tutorial school is not in line with the planning intention. The proposed tutorial school will only serve students in secondary schools in the vicinity who may not reside in Ho Man Tin. Hence, students from the residential neighbourhood would unlikely benefit from the proposed tutorial school;
- (b) more than 20 approved planning applications for tutorial school in the vicinity indicate that the number of such facilities in Kowloon Tong greatly exceeds the educational needs of the residents nearby;
- (c) prospective students would induce pressure on infrastructure in the neighbourhood;
- (d) in view of the narrow traffic lanes and present traffic flow, further traffic volume generated from the proposed tutorial school would be undesirable;
- (e) frequent ingress or egress of traffic to the Premises would jeopardize safety of pedestrians (in particular elderly) and cause nuisance to residents of the same building;

- (f) illegal parking of vehicles on the pavement would block the vehicular access and EVA, and would occupy the parking spaces of the same building;
- (g) given only fresh water supply is available for the building, additional flushing frequency would induce pressure on the aging flushing system of the building; and
- (h) there is insufficient justification provided by the applicant to prove the demand for tutorial schools and that the proposed tutorial school would not generate adverse traffic impact.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed tutorial school use at G/F of an existing residential development in “R(B)” zone, which is primarily intended for medium-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. The Premises is currently vacant with floor area of about 110m². It is planned to accommodate a maximum capacity of 24 students, 4 teachers and 1 staff. No parking spaces and loading/unloading facility has been proposed.
- 11.2 The tutorial school is considered in compliance with TPB PG-No.40 in the following aspects:
 - (a) the Premises is located on the G/F of a 3-storey residential building. The tutorial school is considered not incompatible with other uses within the same building, and the surrounding developments comprising schools and residential developments with G/F commercial uses including tutorial schools;
 - (b) the main entrance/exit to the Premises at Waterloo Road is separated from the entrance of domestic portion of the building. Since the tutorial school can be accessed directly from the main road without the need to route through common areas of the subject building, disturbance or nuisance to the residents of the development is not anticipated; and
 - (c) D of FS and CBS/K of BD have no in-principle objection to/adverse comment on the application from fire and building safety viewpoints.
- 11.3 According to the submission, most of their students attend schools in the nearby area and would walk to/from the Premises, and no additional parking demand and traffic volume would be generated. DO(KC), HAD, C for T and C of P have no objection to/adverse comment on the application.
- 11.4 Based on the applicant’s information in particular the provision of air conditioning to mitigate traffic noise and air impacts, insurmountable environmental impacts associated with the proposed use is not anticipated. Hence, DEP has no objection from environmental perspective. Government departments consulted, including SED,

DLO/KE of LandsD and those mentioned above have no objection to/comment on the application.

- 11.5 Since 2000, 29 similar applications for tutorial school within “R(B)” in the locality were approved by the Committee for reasons that the applied use was considered not incompatible with the other uses within the same building and the surrounding areas, and was not expected to impose adverse impacts on the surrounding areas. This included Application No. A/K7/114 which was approved in the same building on the same street frontage (**Plan A-3**). Approval of the application is not inconsistent with the previous decisions of the Committee.
- 11.6 17 public comments were received during the statutory publication period. The public comments objecting to/raising concerns on the application are mainly on grounds of the proposed tutorial school is not in line with the planning intention of “R(B)” zone, insufficient justification provided by the applicant, over-supply of tutorial schools in the locality, pressure on infrastructure in the neighbourhood, undesirable additional traffic volume, illegal parking, nuisance to the residents nearby and additional pressure on the flushing system of the same building. The assessments in the preceding paragraphs are relevant, and SED, C for T, C for P, DEP, CE/C of WSD and CE/MS of DSD have no objection to/adverse comments on the application.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 18.1.2023, 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 condition of approval and advisory clauses are also suggested for Members’ reference:

Approval Condition

The submission and implementation of fire service installations and water supplies for firefighting prior to commencement of school operation 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 IV**.

- 12.3 There is no strong planning reason to recommend rejection of the 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 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

Appendix I	Application form and supplementary plans received by the Board on 23.11.2018
Appendix Ia	Supplementary information submitted by the applicant on 28.11.2018
Appendix II	Similar applications for school (tutorial school) use within “R(B)” zone in the vicinity
Appendix III	Public comments
Appendix IV	Recommended advisory clauses
Drawing A-1	Layout plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plans A-3 and A-4	Site photos