

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

**APPLICATION NO. A/ST/949**

<b><u>Applicant</u></b>	:	All Land International Enterprises Limited
<b><u>Premises</u></b>	:	Unit B1 (Portion), G/F, Block 2, Kin Ho Industrial Building, 14-24 Au Pui Wan Street, Fo Tan, Sha Tin, N.T.
<b><u>Floor Area</u></b>	:	51m <sup>2</sup> (about)
<b><u>Lease</u></b>	:	(a) STTL 65 and 66 (New Grant Nos. 11268 and 11269 respectively) (b) to be expired on 30.6.2047 (c) restricted to industrial and/or godown purposes excluding offensive trade
<b><u>Plan</u></b>	:	Draft Sha Tin Outline Zoning Plan (OZP) No. S/ST/33
<b><u>Zoning</u></b>	:	“Industrial” (“I”)
<b><u>Application</u></b>	:	Proposed Shop and Services (Retail Shop)

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for proposed ‘Shop and Services (Retail Shop)’ use. According to the Notes of the OZP, ‘Shop and Services (not elsewhere specified) (ground floor only, except in wholesale conversion of an existing building and Ancillary Showroom which may be permitted on any floor)’<sup>1</sup> use in “I” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises, with a floor area of about 51m<sup>2</sup>, is located on the ground floor of Kin Ho Industrial Building abutting Au Pui Wan Street and Min Fong Street. The proposed retail shop will be used for selling snacks and groceries to workers nearby. The opening hours is Monday to Saturday from 8am to 7pm and it is closed during public holiday;
- 1.3 In support of the application, the applicant submitted the application form on 22.3.2018 (**Appendix I**). The floor plan and layout plan of the Premises submitted by the applicant are shown in **Drawings A-1 and A-2**.

---

<sup>1</sup> ‘Shop and Services (Motor-vehicle Showroom on ground floor, Service Trades only)’ is always permitted in the “I” zone.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form at **Appendix I**. They can be summarized as follows:

- (a) There are parking and loading/unloading facilities in the subject industrial building. The proposed retail shop will not generate any environmental and traffic impact to Fo Tan.; and
- (b) Some of the products are manufactured by suppliers in Fo Tan. Selling these products to personnel in the area will help eliminate manpower and transportation to reduce the traffic load and carbon emission.

## **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 ‘Town Planning Board Guidelines for Use/Development within “Industrial” Zone’ (TPB PG-No. 25D), which was revised and promulgated in September 2007, is relevant to this application. For a proposed commercial use in an industrial building, relevant planning assessment criteria are summarized as follows:

- (a) it should be demonstrated that there is a genuine need for the proposed use under application and no suitable alternative accommodation can be found in the vicinity. The location and scale of the proposed use should be justified on operational grounds;
- (b) there should be an adequate provision of parking and loading/unloading facilities within the site in accordance with the Hong Kong Planning Standards and Guidelines and to the satisfaction of the Transport Department. The inclusion and operation of the proposed commercial use should not adversely affect the traffic conditions in the local road network; and
- (c) the Fire Services Department should be satisfied on the risks likely to arise or increase from the proposed commercial use under application. Owing to fire safety concern, the aggregate commercial floor areas on the ground floor of an existing industrial building with and without sprinkler systems should as a general principle not exceeding 460m<sup>2</sup> and 230m<sup>2</sup> respectively. The limits on aggregate commercial floor area do not apply to uses which are ancillary to or for the purposes of supporting the industrial activities and the routine activities of the workers in the industrial building. These uses include bank, fast food counter (sited at street level without seating accommodation and licensed as food factory), electrical shop, local provisions store and showroom in connection with the main industrial use. Moreover, the 230m<sup>2</sup>/460m<sup>2</sup> criteria do not apply to cases involving conversion of the low zone of an existing industrial building for commercial uses if the commercial portion is completely separated from the industrial portion on the upper floors by a buffer floor of non-hazardous

occupancy such as a car-parking floor. In all cases, separate means of escape should be available for the commercial portion.

**5. Previous Application**

The Premises is the subject of a previous application No. A/ST/245 for fast food shop use which was rejected by the Committee on 4.12.1992 on the grounds of no strong justification to sacrifice industrial ground floor space, availability of commercial floor spaces within a short walking distance and setting of an undesirable precedent (**Plan A-2 and Appendix II**).

**6. Similar Applications**

6.1 On the ground floor of Blocks 1 and 2 of Kin Ho Industrial Building, there are 24 similar planning applications for commercial uses which were approved by the Committee. The following similar applications are still valid and should be counted towards the maximum permissible limit of 460m<sup>2</sup> for aggregate commercial floor area on the ground floor of an industrial building (with sprinkler system) according to TPB PG-No. 25D (**Plan A-2 and Appendix III**):

Application No.	Application Premises	Applied Use	Floor Area (About) (m <sup>2</sup> )	Date of Consideration	Decision
A/ST/225	Block 2 B2	Building Material Shop	53	23.10.1992	Approved
A/ST/872	Block 1 C5 (Portion)	Renewal of Planning Approval for Temporary "Shop and Services (Real Estate Agency, Retail Shop)" for a Period of 3 Years	33	17.4.2015	Approved on a temporary basis of 3 years with conditions
<b>Total :</b>			<b>86m<sup>2</sup></b>		

6.2 According to the TPB PG-No. 25D, the limits on aggregate commercial floor area are applicable to the subject application. The limits on aggregate commercial floor area do not apply to local provisions store and fast food counter which is sited at street level without seating accommodation and licensed as food factory.

6.3 There is a similar application No. A/ST/951 for renewal of planning approval for temporary 'Shop and Services (Real Estate Agency and Retail Shop)' for a period of 3 years at Unit C5 (Portion), Block 1 on the G/F of the same industrial building, which will be considered by the Committee at this meeting (**Plan A-2**).

## 7. The Premises and its Surrounding Areas (Plans A-1 to A-4)

7.1 The Premises is:

- (a) located on the ground floor of Block 1 of Kin Ho Industrial Building which is currently under decoration; and
- (b) with direct access to Au Pui Wan Street and Min Fong Street.

7.2 The subject industrial building is:

- (a) a 18-storey industrial building bounded by Au Pui Wan Street, Min Fong Street, Tsung Tau Ha Road and Shek Lau Tung Street. Loading/unloading and car parking spaces are provided on ground and first floors of the building with vehicular access from Shek Lau Tung Street; and
- (b) currently occupied by the following uses on various floors:

Floor	Current Uses
G/F	<b>Application premises</b> , godowns, loading/ unloading areas, fast food shop <sup>@</sup> , real estate agency, retail shops <sup>*</sup> , building materials shop (under decoration), canteen, locked and vacant premises
1/F to 3/F	Carpark, godowns and locked premises
4/F to 17/F	Godowns, workshops, offices and locked premises

<sup>@</sup>The planning approval for such use was revoked.

<sup>\*</sup>The planning approval for such use has expired.

7.3 The surrounding areas have the following characteristics:

- (a) Fo Tan is an established industrial area with high-rise industrial buildings;
- (b) MTR Fo Tan Station is located about 400m from the subject industrial building; and
- (c) a centrally located commercial centre (Shatin Galleria) is about 150m from the Premises. Shatin Galleria is zoned “Commercial” (“C”) on the draft Sha Tin OZP No. S/ST/33 (**Plan A-1**) and is the only “C” zone in the vicinity.

## 8. Planning Intention

The “I” zone of Fo Tan is intended primarily for general industrial uses to ensure an adequate supply of industrial floor space to meet demand from production-oriented industries. Information technology and telecommunications industries and office related to industrial use are also always permitted in this zone.

## **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/Shia Tin, Lands Department (DLO/ST, LandsD):

- (a) the subject building is situated on Sha Tin Town Lot Nos. 65 and 66, which are governed by New Grant Nos. 11268 and 11269 respectively (collectively referred to “the New Grants”). Under the New Grants, the lots shall not be used for any purpose other than industrial or godown purposes or both excluding offensive trade. No building or buildings shall be erected on the lots except a factory or factories or a warehouse or warehouses or both, ancillary offices and such canteen and other welfare facilities for workmen employed on the lots as may be in the opinion of the Director of Lands be necessary and such quarters for watchmen or caretakers as considered essential by Commissioner for Labour; and
- (b) the proposal under the application to use the Premises as ‘Shop and Services (Retail Shop)’ is not permitted under the New Grants. If the application is approved by the Board, the owner of the Premises is required to apply for a waiver from LandsD to implement this proposal. Such application, if received, will be considered by LandsD acting in its capacity as the landlord at its sole discretion and any approval given will be subject to such terms and conditions including, inter alia, payment of waiver fee and administrative fee as may be imposed by LandsD.

### **Building Matters**

9.1.2 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW of BD):

- (a) the proposed use shall comply with the requirements under the Buildings Ordinance. For instance, the shop shall be separated from adjoining premises of industrial use by fire barriers with Fire Resistance Rating of 120 minutes, and the means of escape of the existing adjoining premises shall not be adversely affected; and
- (b) the subdivision of the unit/ premises should comply with the provisions of Buildings Ordinance/ Building (Minor Works) Regulations. The applicant should engage a registered building professional under the Buildings Ordinance to co-ordinate the building works, if any.

## **Fire Safety**

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

- (a) he has no objection in principle to the application subject to:
  - (i) fire service installations and equipment being provided to the satisfaction of Fire Services Department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans; and
  - (ii) means of escape separated from the industrial portion is available for the subject unit;
- (b) the building is protected with a sprinkler system so that the maximum permissible aggregate commercial floor area on G/F is 460m<sup>2</sup> in accordance with TPB PG-No.25D. The applied use should be counted up to the aggregate commercial floor area;
- (c) regarding matters related to fire resisting construction of the Premises, the applicant is reminded to comply with the 'Code of Practice for Fire Safety in Buildings' which is administered by the Building Authority; and
- (d) the applicant should pay attention to the 'Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises' if the application is approved.

### 9.2 The following Government departments have no objection to/comment on the application:

- (a) Commissioner for Transport (C for T); and
- (b) District Officer/Shia Tin, Home Affairs Department (DO/ST, HAD).

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

On 3.4.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 24.4.2018, no comment was received.

## **11. Planning Considerations and Assessments**

11.1 The planning intention of the "I" zone is to reserve land primarily for general industrial uses to ensure adequate supply of industrial floor space to meet demand from production-oriented industries. However, commercial uses in industrial buildings within the "I" zone may be permitted on application to the Board based on individual merits and the planning assessment criteria set out in the TPB PG-No. 25D.

- 11.2 The Premises is located on the ground floor of an existing industrial building with direct access to Au Pui Wan Street and Min Fong Street. The proposed 'Shop and Services (Retail Shop)' use under application is considered not incompatible with the industrial and industrial-related uses in the subject industrial building and the surrounding developments. Similar applications for a range of mixed 'Shop and Services' uses including pharmacy, real estate agency and retail shop have been approved for other units on the ground floor of the subject industrial building (**Plan A-2 and Appendix III**) and its vicinity.
- 11.1 The subject industrial building is subject to a maximum permissible limit of 460m<sup>2</sup> for aggregate commercial floor area on the ground floor. Currently, the approved aggregate commercial floor area of 'Shop and Services' use on the ground floor of the subject building excluding the Premises is 86m<sup>2</sup>. If the floor area of the Premises (51m<sup>2</sup>) is included, the aggregate commercial floor area will be 137m<sup>2</sup>, which is within the maximum permissible limit of 460m<sup>2</sup>. D of FS has no objection in principle to the application subject to approval conditions on provision of fire service installations and equipment.
- 11.3 The proposed 'Shop and Services (Retail Shop)' use under application generally complies with the relevant considerations set out in the TPB PG-No. 25D including the fire safety and traffic aspects. Relevant Government departments, including BD and TD have no objection to or no adverse comment on the application.
- 11.4 A temporary approval of three years is recommended in order not to jeopardise the long term planning intention of industrial use for the Premises and to allow the Committee to monitor the supply and demand of industrial floor space in the area.
- 11.5 No public comment was received during the statutory public inspection period.

## 12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 above, the Planning Department has no objection to the application on a temporary basis for a period of three years.
- 12.2 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 18.5.2021. The following approval conditions and advisory clauses are suggested for Members' reference:

### Approval Conditions

- (a) the submission and implementation of the fire safety measures to the satisfaction of the Director of Fire Services or of the Board before operation of the use;
- (b) if the above planning condition is not complied with before the operation of the use, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

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

12.3 There is no strong 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 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**

Appendix I	Application form received on 22.3.2018
Appendix II	Details of previous applications
Appendix III	Similar applications for 'Shop and Services' use at ground floor of Blocks 1 and 2 of Kin Ho Industrial Building
Appendix IV	Recommended advisory clauses
Drawing A-1	Floor Plan
Drawing A-2	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Floor Plan
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT  
MAY 2018**