

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/ST/951

<u>Applicant</u>	:	Daywin Holdings Limited
<u>Premises</u>	:	Unit C5 (Portion), G/F, Block 1, Kin Ho Industrial Building, Nos. 14-24 Au Pui Wan Street, Fo Tan, Sha Tin, N.T.
<u>Floor Area</u>	:	About 33 m ²
<u>Lease</u>	:	(a) STTL Nos. 65 and 66 (New Grant Nos. 11268 and 11269) (b) to be expired on 30.6.2047 (c) restricted to industrial and/or godown purposes excluding offensive trade
<u>Plan</u>	:	Draft Sha Tin Outline Zoning Plan (OZP) No. S/ST/33
<u>Zoning</u>	:	“Industrial” (“I”)
<u>Application</u>	:	Renewal of Planning Approval for Temporary ‘Shop and Services (Real Estate Agency and Retail Shop)’ for a Period of 3 Years

1. The Proposal

- 1.1 On 22.3.2018, the applicant sought renewal of the planning approval under application No. A/ST/872 for temporary ‘Shop and Services (Real Estate Agency and Retail Shop)’ use for a period of three years at the application premises (the Premises) (**Plan A-1**). 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)’¹ use in “I” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises is the subject of a previous application No. A/ST/872 submitted by the same applicant for the same use. The previous application was approved by the Rural and New Town Planning Committee (the Committee) of the Board with conditions on 17.4.2015 on a temporary basis for a period of three years from 19.5.2015 to 18.5.2018. The applicant has complied with all the approval conditions. The planning permission is due to expire on 18.5.2018.
- 1.3 The Premises, with a floor area of about 33m², is located on the ground floor of Kin Ho Industrial Building abutting Au Pui Wan Street. The floor plans of the Premises submitted by the applicant are shown in **Drawings A-1 and A-2**. There

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

is no change in the development scheme compared with the previous permission under application No. A/ST/872.

- 1.4 In support of the application, the applicant has submitted the application form dated 22.3.2018 and attachments at **Appendix I**.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 8 of the application form and attachments at **Appendix I**. They can be summarized as follows:

- (a) the Premises is the subject of a previous planning application No. A/ST/872 for real estate agency and retail shop approved by the Committee on a temporary basis for three years. All previous approval conditions have been complied with. The applied use and layout of the current renewal application is the same as the previously approved application; and
- (b) the real estate agency and retail shop use is to respond to the local market needs and to serve the local community and it does not generate any adverse impacts on vehicular and pedestrian traffic flow to the surrounding areas.

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

- 4.1 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 460m² and 230m² 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 230m²/460m² 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.

4.2 The 'Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development' (TPB PG-No. 34B) is relevant to this application. The relevant assessment criteria are summarized as follows:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
- (d) whether the approval period sought is reasonable; and
- (e) any other relevant considerations.

Under normal circumstances, the approval period for renewal should not be longer than the original validity period of the temporary approval. In general, the Board is unlikely to grant an approval period exceeding three years unless there are strong justifications and the period is allowed for under the relevant statutory plans. Depending on the circumstances of each case, the Board could determine the appropriate approval period, which may be shorter than the time under request.

5. Previous Applications

The Premises is involved in seven previous applications (Nos. A/ST/194, 497, 549, 719, 756, 778 and 872) for various shop and services uses (**Plan A-2** and **Appendix II**). All the previous applications were approved with or without conditions by the Committee between 1992 and 2015 on the consideration that the proposed developments were not incompatible with the industrial/industrial-related uses in the surroundings; the proposed developments complied with the relevant Town Planning Board Guideline related to uses/developments in “I” zone; and the relevant departments had no adverse comment. The last Application No. A/ST/872 was approved with conditions by the Committee on 17.4.2015 on a temporary basis for a period of three years from 19.5.2015 to 18.5.2018 and the approval conditions on fire safety measures have been complied with. The planning permission under application No. A/ST/872 is valid until 18.5.2018.

6. Similar Applications

6.1 There are 18 similar applications for commercial uses on the ground floor of Blocks 1 and 2 of Kin Ho Industrial Building. Except application No. A/ST/245, all applications were approved with or without conditions by the Committee between 1992 and 2016. The following application is still valid and should be counted towards the maximum permissible limit of 460m² 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 (Unit)	Applied Use	Floor Area (About) (m ²)	Date of Consideration	Decision
A/ST/225	Block 2 Unit B2	Building Material Shop	53	23.10.1992	Approved
Total :			53m²		

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/949 for proposed ‘Shop and Services (Retail Shop)’ at Unit B1 (Portion), Block 2 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-4c)

7.1 The Premises is:

- (a) located on the ground floor of Block 1 of Kin Ho Industrial Building which is currently used as real estate agency and retail shop; and
- (b) with direct access to Au Pui Wan 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	Application premises , godowns, loading/ unloading areas, fast food shop [@] , retail shop [*] , building material 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

[@]The planning approval for such use was revoked.

^{*}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/Shatin, 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) whilst the use of 'Shop and Services (Real Estate Agency and Retail Shop)' is not permitted under New Grants, a temporary waiver (W593) has been granted to permit Unit C5 (Portion) on G/F of Block 1 of Kin Ho Industrial Building for the purpose of real estate agency and retail shop use. As such, he has no objection to the application from land administrative perspective.

Building Matters

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

- (a) he has no objection to the application subject to that the use shall comply with the requirements under the Buildings Ordinance. For instance, the shop shall be separated from adjoining workshops 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 the following conditions:
 - (i) fire service installations and equipment being provided to the satisfaction of his department. Detailed fire service requirements will be formulated upon receipt of formal submission of general building plans; and
 - (ii) means of escape completely separated from the industrial portion is available for the subject unit.
- (b) the building is provided with a sprinkler system so that the maximum permissible aggregate commercial floor area on G/F is 460m² 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 observe 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 comment on / objection to the application:

- (a) Commissioner for Transport (C for T); and
- (b) District Officer/Shu 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 public comment was received.

11. Planning Considerations and Assessments

- 11.1 The Premises is located on the ground floor of an existing industrial building with direct access to Au Pui Wan Street. This is a renewal application to continue the existing real estate agency and retail shop use at the Premises, which was approved with conditions on a temporary basis for three years until 18.5.2018 under application No. A/ST/872. The applicant has complied with all the approval conditions, i.e. on the submission and implementation of fire safety measures to the satisfaction of D of FS.
- 11.2 The current application is the same as the previously approved application in terms of use and area of the Premises and there has been no material change in planning circumstances since the previous temporary approval was granted. There is no adverse planning implication arising from the renewal of the planning approval. The approval period of three years sought is also not longer than the original validity period of the temporary approval, which is considered reasonable to allow the Committee to monitor the supply and demand of industrial floor space in the area. As such, the proposed renewal application complies with the TPB PG-No.34B for renewal of planning approval.
- 11.3 The ‘Shop and Services (Real Estate Agency and 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 its vicinity.

- 11.4 The subject industrial building is subject to a maximum permissible limit of 460m² 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 53m². If the floor area of the Premises (33m²) is included, the aggregate commercial floor area will be 86m², which is within the maximum permissible limit of 460m². D of FS has no objection in principle to the application subject to approval conditions on provision of fire service installations.
- 11.5 The 'Shop and Services (Real Estate Agency and 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 adverse comment on the application.
- 11.6 No public comment has been 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 further period of three years from 19.5.2018 to 18.5.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the provision of the fire service installations within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 19.11.2018; and
- (b) if the above planning condition (a) is not complied with by the specified date, 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 for renewal of the planning 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' uses at ground floor of Blocks 1 and 2 of Kin Ho Industrial Building
Appendix IV	Recommended Advisory clauses
Drawings A-1 and A-2	Floor plans
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Ground floor plan
Plans A-4a and A-4c	Site photos

**PLANNING DEPARTMENT
MAY 2018**