

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

**APPLICATION NO. A/ST/960**

<b><u>Applicant</u></b>	:	Lucky Property Agency Limited
<b><u>Premises</u></b>	:	Portion A1 of Unit 3, G/F, Fo Tan Industrial Centre, 26-28 Au Pui Wan Street, Fo Tan, Sha Tin, N.T.
<b><u>Floor Area</u></b>	:	15m <sup>2</sup> (about)
<b><u>Lease</u></b>	:	(a) STTL No. 170 (b) to be expired on 30.6.2047 (c) restricted to industrial and/or godown purposes or both
<b><u>Plan</u></b>	:	Approved Sha Tin Outline Zoning Plan (OZP) No. S/ST/34
<b><u>Zoning</u></b>	:	“Industrial” (“I”)
<b><u>Application</u></b>	:	Shop and Services (Real Estate Agency)

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Shop and Services (Real Estate Agency)’ 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).
- 1.1 The Premises, with a floor area of about 15m<sup>2</sup>, is located on the ground floor of Fo Tan Industrial Centre abutting Au Pui Wan Street. It is the subject of a previous application (No. A/ST/815) submitted by the same applicant for the same use approved by the Rural and New Town Planning Committee (the Committee) on 19.4.2013 with conditions on a temporary basis for a period of three years. Approval condition on fire safety measures has been complied with. Planning permission under the previous application expired on 20.4.2016. The subject real estate agency is currently operating without valid planning permission.
- 1.2 In support of the application, the applicant submitted the application form on 26.7.2018 (**Appendix I**). The floor plans of the Premises submitted by the applicant are shown in **Drawings A-1 and A-2**.

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<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**, which states that the proposal responds to the local market need and will not generate any adverse impacts on vehicular and pedestrian traffic flow to the surrounding areas. There is no change to the use of the Premises as compared with the previous approved application No. A/ST/815.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the ‘Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance’ (TPB PG-No. 31) by obtaining consent. 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/815 submitted by the same applicant for the same use, which was approved with conditions by the Committee on 19.4.2013 on a temporary basis for a period of three years (**Plan A-2 and Appendix II**). The approval condition on fire safety measures has been complied with. The planning permission under application No. A/ST/815 expired on 20.4.2016.

## 6. Similar Applications

6.1 Fo Tan Industrial Centre is located on a sloping ground. The ground and first floors of the building, where commercial floor spaces are found, are abutting Au Pui Wan Street and Tsung Tau Ha Road. On the first floor, there is no similar application. On the ground floor, there are five similar applications for commercial uses which were approved by the Committee between 1990 and 2014 (**Plan A-2 and Appendix III**). The following two 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:

No.	Application No.	Application Premises	Applied Use	Floor Area (About) (m <sup>2</sup> )	Date of Consideration
<i>Ground Floor</i>					
1.	A/ST/208	3D	Metal/Hardware Shop	101	24.7.1992
2.	A/ST/213	3B	Retail Shop Selling Electrical Accessories, Stationery and Packaging Materials	149	4.9.1992
<b>Total:</b>				<b>250m<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. Should the floor area of the Premises be included, the aggregate commercial floor area will be 265m<sup>2</sup>, which is within the maximum permissible limit of 460m<sup>2</sup>.

## 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 Fo Tan Industrial Centre in Fo Tan industrial area; and
- (b) with direct access to Au Pui Wan Street.

7.2 The subject industrial building is:

- (a) 19 storeys in height bounded by Au Pui Wan Street, Tsung Tau Ha Road and Kwei Tei Street. Car parking spaces are provided on the second floor of the building with vehicular access from Kwei Tei Street; and
- (b) currently occupied by the following uses on various floors:

Floor	Current Uses
G/F (Plan A-3a)	<b>Application premises</b> , godowns, canteen, real estate agency <sup>#</sup> , electrical accessories shop, advertising engineering workshop, metal hardware shop, mechanical engineering workshop, air conditioning and decoration engineering workshop, recycling centre, interior design companies <sup>#</sup> , florist <sup>#</sup> , locked and vacant premises
1/F (Plan A-3b)	Offices, godowns and locked premises
2/F	Car park
3/F-18/F	Offices, godowns, workshops, locked and vacant premises

<sup>#</sup>There is no record of planning approval granted for such use.

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 500m from the subject industrial building; and
- (c) a centrally located commercial centre (Shatin Galleria) is about 130m from the Premises. Shatin Galleria is zoned “Commercial” (“C”) on the approved Sha Tin OZP No. S/ST/34 (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 Premises is situated on Sha Tin Town Lot No. 170 and is governed under New Grant No. 11640 (“the New Grant”). Under the New Grant, the lot shall not be used for any purpose other than industrial or godown purposes or for showrooms and facilities for the sale of motor vehicles, accessories and spare parts or motor vehicle repair workshops or any of them excluding any petrol filling station or any other offensive trade; and
- (b) the proposal under the application to use the Premises as ‘Shop and Services (Real Estate Agency)’ purpose is not permitted under the New Grant. However, the Premises is currently subject to a temporary waiver (W564) allowing the use of ‘Shop and Services (Real Estate Agency)’ with a waiver area of 15m<sup>2</sup>. In this regard, he has no objection to the application from land administration perspective.

### **Building Matters**

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

- (a) 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;
- (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; and
- (c) the applicant is advised to engage an authorised person 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 his department. Detailed fire safety 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; and
- (b) District Officer/Shu Tin, Home Affairs Department.

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

On 3.8.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, 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. The 'Shop and Services (Real Estate Agency)' use under application is small in scale and 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 metal/hardware shop, electrical accessories shop, bicycle shop and local provision store have been approved on the ground floor of the subject industrial building (**Plan A-2** and **Appendix III**).
- 11.3 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 is 250m<sup>2</sup>. If the floor area of the Premises (15m<sup>2</sup>) is included, the aggregate commercial floor area will be 265m<sup>2</sup>, which is within maximum permissible limit of 460m<sup>2</sup>. D of FS has no in-principle objection to the application subject to approval conditions on provision of fire service installations and water supplies for firefighting.

- 11.4 The 'Shop and Services (Real Estate Agency)' 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.
- 11.5 The previous application (No. A/ST/815) submitted by the same applicant for the same use was approved with conditions by the Committee in 2013 on a temporary basis for a period of three years. The approval condition related to the submission and implementation of fire safety measures has been complied with. The planning permission expired in April 2016. There is no change in planning circumstances since the approval of the previous application.
- 11.6 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.
- 11.7 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 21.9.2021. The following approval conditions and advisory clauses are suggested for Members' reference:

### Approval Conditions

- (a) the submission and implementation of the fire safety measures within 6 months from the date of the approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 21.3.2019; and
- (b) if the above planning condition 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.
- 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 26.7.2018
Appendix II	Previous application at the Premises
Appendix III	Similar applications for 'Shop and Services' use at G/F of Fo Tan Industrial Centre
Appendix IV	Recommended advisory clauses
Drawings A-1 and A-2	Floor Plans
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3a and A-3b	Floor Plans
Plan A-4	Site Photos

**PLANNING DEPARTMENT  
SEPTEMBER 2018**