

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/ST/974

<u>Applicant</u>	:	Mr. Cheung Tsz Kwan
<u>Premises</u>	:	Workshop 5A (Part), G/F, Veristrong Industrial Centre, 34-36 Au Pui Wan Street, Fo Tan, Sha Tin, N.T.
<u>Floor Area</u>	:	8.51m ² (about)
<u>Lease</u>	:	(a) STTL No. 141 (New Grant No.11624) (b) restricted to industrial and/or godown purposes
<u>Plan</u>	:	Approved Sha Tin Outline Zoning Plan (OZP) No. S/ST/34
<u>Zoning</u>	:	“Industrial” (“I”)
<u>Application</u>	:	Renewal of Planning Approval for Temporary Shop and Services (Construction Materials Store) for a Period of 3 Years

1. The Proposal

- 1.1 On 26.8.2019, the applicant sought renewal of the planning approval under application No. A/ST/906 for temporary ‘Shop and Services (Construction Materials Store)’ 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/906 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 11.11.2016 on a temporary basis for a period of three years. The applicant has complied with all the approval conditions. The planning permission is due to expire on 12.11.2019.
- 1.3 The Premises, with a floor area of about 8.51m², is located on the ground floor of Veristrong Industrial Centre abutting Au Pui Wan Street. The floor plan of the Premises submitted by the applicant is shown in **Drawing A-1**. There is no change in the development scheme compared with the previous permission under application No. A/ST/906.

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

1.4 In support of the application, the applicant has submitted the application form and attachments (**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**, which state that the applied use and layout of the current renewal application is the same as the previously approved application. The approval conditions on fire safety measures have been complied with and there is no change on the fire services installations. The opening hours of the construction materials store are from Mondays to Fridays 8:00am to 6:00pm and Saturdays 8:30am to 4:00pm.

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. 31A) by obtaining consent. 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. 34C) 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**

5.1 The Premises forms part of nine previous applications (Nos. A/ST/180, A/ST/241, A/ST/287, A/ST/350, A/ST/433, A/ST/506, A/ST/761, A/ST/828 and A/ST/906) for various shop and services uses (**Plan A-2** and **Appendix II**). Application No. A/ST/241 was rejected by the Committee in 1992 on the grounds that the proposed use was not in line with the Board's guidelines for commercial use in industrial building; commercial floor spaces are available in the nearby commercial centre and approval of the application would set an undesirable precedent for similar applications.

5.2 The other eight applications (Nos. A/ST/180, A/ST/287, A/ST/350, A/ST/433, A/ST/506, A/ST/761, A/ST/828 and A/ST/906) were approved with or without conditions by the Committee between 1991 and 2016. They were approved on similar considerations that the proposed use was not incompatible with the industrial-related uses in the vicinity and generally in compliance with TPB PG-No. 25D. The last application No. A/ST/906 was approved with conditions by the Committee on 11.11.2016 on a temporary basis for a period of three years and the approval conditions on fire safety measures have been complied with. The planning permission under application No. A/ST/906 is valid until 11.11.2019.

6. Similar Applications

- 6.1 On the ground floor of Veristrong Industrial Centre, there are two similar applications for commercial uses, where one was approved by the Committee in the past 10 years, and the other application was approved by the Committee in 1999 with permanent approval granted (**Plan A-2** and **Appendix III**).
- 6.2 The following application is still valid and should be counted towards the maximum permissible limit of 460m² for aggregate commercial floor area on the G/F of an industrial building (with sprinkler system) according to TPB PG-No. 25D:

Application No.	Application Premises	Applied Use	Floor Area (About) (m ²)	Date of Consideration	Decision
A/ST/503	Unit 3B (Part)	Retail Shop (Spare Parts for Electrical Appliances and Metal Parts)	16	8.10.1999	Approved
Total :			16m²		

6.3 According to the TPB PG-No. 25D, the limits on aggregate commercial floor area do not apply to uses which are ancillary to or for the purpose of supporting the industrial activities. Hence, the limits on aggregate commercial floor area are not applicable to the current application.

7. The Premises and Its Surrounding Areas (Plans A-1 to A-4c)

7.1 The Premises is:

- (a) located on G/F of Veristrong 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) 18 storeys in height bounded by Au Pui Wan Street, Sui Wo Road and Kwei Tei Street. Car parking spaces are provided on the ground, first and second floors of the building with access from Au Pui Wan Street; and

(b) currently occupied by the following uses on various floors:

Floor	Current Uses
G/F (Plan A-3)	Application premises , vehicle repair workshop, canteen, spare parts for electrical appliances and metal parts shop, construction materials store [#] , water purification equipment and supplies shop [#] , interior design company [#] , workshops, godowns, car park, locked and vacant premises
1/F	Godowns and locked premises
2/F	Carpark and loading/unloading spaces
3/F-17/F	Offices, godowns, workshops, vacant and locked premises

[#] 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 640m from the subject industrial building; and
- (c) a centrally located commercial centre (Shatin Galleria) is about 170m from the Premises. Shatin Galleria is zoned “Commercial” (“C”) on the Sha Tin OZP (**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. 141 and is governed under New Grant No. 11624 (“the New Grant”). Under the New Grant, the lot shall not be used for any purpose other than industrial or godown purposes or both excluding offensive trade; and
- (b) whilst the renewal application to use the Premises as ‘Shop and Services (Construction Materials Store)’ is not permitted under the New Grant, the Premises is currently covered by a temporary

waiver allowing the use of 'Shop and Services (Construction Materials Store)'. This office therefore has no objection to the application.

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 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 renewal application provided that the existing fire service installations implemented at the Premises is maintained in efficient working order at all times; and
- (a) the building is protected 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 not be counted up to the aggregate commercial floor area.

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 3.9.2019, 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 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 construction materials store at the Premises, which was

approved with conditions on a temporary basis for three years until 11.11.2019 under application No. A/ST/906. 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.34C for renewal of planning approval.
- 11.3 The ‘Shop and Services (Construction Materials Store)’ 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 ‘Shop and Services’ use have previously been approved on the ground floor of the subject industrial building (**Plan A-2**).
- 11.4 The ‘Shop and Services (Construction Materials Store)’ use under application generally complies with the relevant considerations set out in the TPB PG-No. 25D including the fire safety and traffic aspects. D of FS has no in-principle objection to the application provided that the existing fire service installations implemented at the Premises is maintained in efficient working order at all times. Relevant Government departments including BD and TD have no objection to or adverse comment on the application.
- 11.5 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 12.11.2019 to 11.11.2022. The following condition of approval and advisory clauses are also suggested for Members’ reference:

Approval Condition

The existing fire service installations implemented at the application premises should be maintained in efficient working order at all times.

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 26.8.2019
Appendix II	Previous applications at the Premises
Appendix III	Similar applications for shop and services at G/F of Veristrong Industrial Centre
Appendix IV	Recommended advisory clauses
Drawing A-1	Ground Floor Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Floor Plan
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2019**