

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

**APPLICATION NO. A/ST/985**

<b><u>Applicant</u></b>	:	Ferticore Industries Limited represented by Kenneth To and Associates Limited
<b><u>Premises</u></b>	:	Room 08, 10/F, Shing Chuen Industrial Building, No. 25-27 Shing Wan Road, Sha Tin
<b><u>Floor Area</u></b>	:	About 93.98 m <sup>2</sup>
<b><u>Lease</u></b>	:	(a) STTL No. 42 (New Grant No. 11835) (b) restricted to industrial and/or godown purposes excluding offensive trades
<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>	:	Renewal of Planning Approval for Temporary Office under Application No. A/ST/921 for a Period of three Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of the planning approval under application No. A/ST/921 for temporary office use for a period of three years at application premises (the Premises) (**Plan A-1**). According to the Notes of the OZP, ‘Office (not elsewhere specified)<sup>1</sup>’ is a Column 2 use in the “I” zone which requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises is the subject of a previous application No. A/ST/921 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 23.6.2017 on a temporary basis for a period of three years. The applicant has complied with all the approval conditions. The planning permission is valid until 23.6.2020.
- 1.3 The Premises, with a total floor area of 93.98m<sup>2</sup>, is located on the tenth floor of Shing Chuen Industrial Building (the subject industrial building) abutting Shing Hing Street, Shing Chuen Road and Shing Wan Road. The layout plan of the Premises submitted by the applicant is shown on **Drawing A-1**. There is no

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<sup>1</sup> ‘Office (Audio-visual Recording Studio, Design and Media Production, Office Related to Industrial Use only)’ is always permitted within the “I” zone.

change in the development scheme compared with the previous permission under application No. A/ST/921.

1.4 In support of the application, the applicant has submitted the following documents:

- |  |                      |
|--|----------------------|
| (a) Application form received on 24.4.2020         | <b>(Appendix I)</b>  |
| (b) Supporting Planning Statement                  | <b>(Appendix Ia)</b> |
| (c) Further Information (FI) received on 12.5.2020 | <b>(Appendix Ib)</b> |

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

The justifications put forth by the applicant in support of the application are detailed in the supporting planning statement at **Appendix Ia** and FI at **Appendix Ib**. They can be summarized as follows:

- (a) there is no material change in planning circumstances since the previous approval. The temporary office use is considered not incompatible with the land use within the subject industrial building which is predominantly occupied by offices and godowns;
- (b) the extension period of three years under application is considered reasonable. It will not jeopardize the long-term planning intention of industrial use, and will allow the Board to monitor the supply and demand of industrial floor space in the area;
- (c) the applicant has fully complied with the approval conditions attached to the previous permission in relation to the provision of fire service installations (FSIs). The FSIs are up-to-standard and well-maintained;
- (d) the Premises in the subject industrial building with adequate provision of goods lifts, corridor space and loading/unloading area is considered an appropriate location for the office of the applicant to handle the company's business involving ore minerals. Besides, it is highly accessible and well served by public transport;
- (e) the proposed temporary office use will not create adverse impacts in terms of fire safety, environment and traffic aspects. The office use does not involve direct provision of customer services and goods. The Premises is installed with well-maintained FSIs and air conditioning system and there are no polluting industries within the subject industrial building. Adequate car parking spaces and loading/unloading facilities are provided in the subject industrial building; and
- (f) the applicant as a supplier of ore minerals is closely related to the manufacture of high-tech electronics and the components of jet engines. It has a great contribution to the manufacturing industries as part of the supply chain process.

### 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) for a proposed commercial use in an industrial building or on the upper floors of an industrial-office building, 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.

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 Application

The Premises is the subject of a previous application (No. A/ST/921) (**Plan A-2**) submitted by the same applicant for the same use. The application was approved by the Committee with conditions on 23.6.2017 on a temporary basis for a period of three years on the consideration that the office use was not incompatible with the industrial/industrial-related uses in the surroundings; complied with the TPB PG-No. 25D; and would have no adverse impact on traffic, fire safety and the environment. The approval conditions on fire safety measures have been fully complied with. Planning permission under application No. A/ST/921 is valid until 23.6.2020.

## 6. Similar Applications

- 6.1 There are three similar applications for office use in the subject industrial building (**Plan A-2**).
- 6.2 Application No. A/ST/804 for office use on 8/F was rejected by the Committee on 25.1.2013 and by the Board upon review on 10.5.2013 on the grounds that the proposed development did not comply with the TPB PG-No. 25D. The proposal included non-office uses including workshop for training or production, pottery and handicrafts making, artwork design, song writing and practicing of musical instruments which would attract persons who could be exposed to fire risk, which they would neither be aware of nor prepared to face and the proposed use was unacceptable from fire safety point of view.
- 6.3 Application No. A/ST/811 for office use on 9/F was rejected by the Committee on 5.4.2013 on the grounds that the proposed use would be subject to potential adverse air quality and noise impacts from the surrounding industrial activities. Subsequently, EPD re-examined the case and considered that there were no polluting industries found within the subject industrial building and the proposed office use under application could be regarded as tolerable from environmental point of view. On 26.7.2013, the Board upon review approved the application with conditions on a temporary basis for a period of three years on the ground that the application was considered in compliance with TPB PG-No. 25. The application, however, was revoked on 26.1.2014 due to failure to comply with the approval conditions on the submission of air quality and noise assessment and fire safety measures.
- 6.4 Application No. A/ST/939 for office use at rooms 5 and 7 on 10/F was approved with conditions on a temporary basis for a period of three years by the Committee on 22.12.2017 on the consideration that the office use was not incompatible with the industrial/industrial-related uses in the surroundings; complied with the TPB PG-No. 25D; and would have no adverse impact on traffic, fire safety and the environment.

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

7.1 The Premises is:

- (a) located on 10/F of Shing Chuen Industrial Building in Tai Wai industrial area; and
- (b) currently used as an office.

7.2 The subject industrial building is:

- (a) 11 storeys in height bounded by Shing Hing Street, Shing Chuen Road and Shing Wan Road. Car parking and loading/unloading spaces are provided on ground and first floors of the building with vehicular access from Shing Wan Road; and
- (b) currently occupied by the following uses on various floors:

Floor	Current Uses
G/F	Offices, vehicle repair workshops, wine shop#, real estate agency#, godown and locked premises
1/F to 9/F	Offices, godowns, workshops and locked premises
10/F	<b>The Premises</b> , offices, godown and locked premises

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

7.3 The surrounding areas have the following characteristics:

- (a) the surrounding area is an established industrial area with medium-rise industrial buildings with various commercial uses including offices and shop and services on ground floor;
- (b) the subject industrial area is segregated from neighbouring residential areas by Shing Mun River and the MTR East Rail Line; and
- (c) MTR Tai Wai Station is located about 200m to the southwest of the subject industrial building.

## 8. Planning Intention

The “I” zone of Tai Wai 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/Shu Tin, Lands Department (DLO/ST, LandsD):

- (a) the Premises is situated on 10/F of Shing Chuen Industrial Building, erected on Sha Tin Town Lot No. 42 and are governed under New Grant No 11835 (“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) a temporary waiver was granted by his office to the existing owner of the Premises to allow the use of the Premises with internal floor area of 89.6m<sup>2</sup> (about) for ‘Office’ purpose with a fixed term of three years and thereafter quarterly commencing from 1.5.2016. Thus, should there be any deviation from the waiver conditions, the owner of the Premises is required to apply for a new temporary waiver from LandsD. There is no guarantee that the application, if received, will be approved by LandsD. The application will be considered by LandsD acting in its capacity as the landlord at its own 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.

### Environment

9.1.2 Comments of Director of Environmental Protection (DEP):

he has no objection to the current renewal application in view that the office use is not incompatible with other uses in the subject industrial building and there is no change in the proposed use and nature of current uses in the subject industrial building since the previous approval.

### Traffic

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

he has no in-principle objection to the renewal application from traffic engineering point of view.

### Fire Safety

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

he has no in-principle objection to the renewal application provided that the existing fire service installations implemented at the Premises is maintained in efficient working order at all times;

### Building Matters

#### 9.1.5 Comments of the Chief Building Surveyor/New Territories East 2 and Rail, Buildings Department (CBS/NTE2 & Rail of BD):

- (a) he has no in-principle objection to the application subject to:
  - (i) removal of all unauthorized building works/structure;
  - (ii) all building works are subject to compliance with Buildings Ordinance (BO);
  - (iii) authorised person (AP) must be appointed to coordinate all building works, if any;
  - (iv) the granting of the planning approval should not be construed as an acceptance of the unauthorized structures in the Premises under BO. Enforcement action may be taken to effect the removal of all unauthorized works in future;
  - (v) the provision of natural lighting and ventilation of the proposed office should comply with Building (Planning) Regulation 30; and
- (b) detailed comments would be given at building plan submission stage.

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

- (a) District Officer/Shu Tin, Home Affairs Department;
- (b) Chief Engineer/Mainland South, Drainage Services Department;
- (c) Director-General of Trade and Industry;
- (d) Chief Engineer/Construction, Water Supplies Department;
- (e) Chief Highway Engineer/New Territories East, Highways Department; and
- (f) Project Manager/New Territories East, Civil Engineering and Development Department.

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

On 5.5.2020, the application was published for public inspection. During the statutory public inspection period, no comment was received.

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

- 11.1 The Premises is located on 10/F of an existing industrial building in Tai Wai industrial area. This is a renewal application to continue the existing office use at the Premises, which was approved with conditions on a temporary basis for three years until 23.6.2020 under application No. A/ST/921. 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 renewal application is for partial conversion of an existing industrial building for office use. It is considered not incompatible with the industrial and industrial-related uses in the subject industrial building and its vicinity, in which office and shops and services uses can be found. Two similar applications for office use were approved with conditions on a temporary basis by the Committee and the Board upon review between 2013 and 2017.
- 11.4 The office use under application generally complies with the relevant considerations set out in the TPB PG-No. 25D. It would have no adverse impact on the area from fire safety, traffic and environmental considerations. 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. Other Government departments consulted including TD, EPD and BD have no objection to/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 24.6.2020 to 23.6.2023. 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 II**.

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 24.4.2020
Appendix Ia	Supporting Planning Statement
Appendix Ib	FI received on 12.5.2020
Appendix II	Recommended advisory clauses
Drawing A-1	Layout plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Floor plan
Plan A-4	Site Photos