

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K10/272

<u>Applicant</u>	: Mr. WONG Chong Wa represented by Formtech (H.K.) Limited
<u>Premises</u>	: Ground floor (G/F), 5 Junction Road, Kowloon City, Kowloon
<u>Floor Area</u>	: About 158m ²
<u>Lease</u>	: New Kowloon Inland Lot (NKIL) No. 3650 - held under Government Lease for a term up to 30.6.2047; and - ground floor may be used for non-industrial purposes
<u>Plan</u>	: Approved Ma Tau Kok Outline Zoning Plan (OZP) No. S/K10/30
<u>Zoning</u>	: “Residential (Group B)” (“R(B)”) [Restricted to maximum plot ratio (PR) of 5 and maximum building height (BH) of 80mPD, or the PR and BH of the existing building, whichever is the greater]
<u>Application</u>	: School (Tutorial School)

1. The Proposal

- 1.1 The applicant seeks planning permission for a tutorial school at the application premises (the Premises), which is zoned “R(B)” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘School’ not in a free-standing purpose-designed building is a Column 2 use in the “R(B)” zone and requires planning permission from the Town Planning Board (the Board). The Premises is currently used for the applied use without any valid planning permission.
- 1.2 The Premises is located on the G/F of a 5-storey residential development at 5 Junction Road (**Plan A-2**). According to the submission, the tutorial school has a floor area of about 158m² and comprises a counter, an administrative office, a principal room, 5 classrooms, a teachers’ area, 2 washrooms and a pantry, with a maximum capacity to accommodate 40 students and 10 teachers/staff. The layout plan of the tutorial school submitted by the applicant is at **Drawing A-1**. The operation hours of the tutorial

school are from 4:00pm to 8:00pm from Mondays to Saturdays. The entrance of the Premises on the G/F abuts Junction Road (**Plan A-2**) and is separated from the entrance to the residential units on the upper floors and another non-domestic unit on the G/F (**Plan A-3**). No parking space and loading/unloading (L/UL) facility has been proposed.

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

- (a) Application form received on 29.12.2023 (**Appendix I**)
- (b) Supplementary plans received on 3.1.2024 (**Appendix Ia**)
- (c) Further information (FI) received on 22.1.2024[^] (**Appendix Ib**)
- (d) FI received on 6.2.2024[^] (**Appendix Ic**)

[^]accepted and exempted from publication and recounting requirements

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are provided in **Appendices I, Ib and Ic**. They are summarized as follows:

- (a) the applicant has operated a tutorial school in the vicinity of the Premises at the same street since August 2011 until they had to relocate to the Premises in 2023 due to redevelopment. Over the course of more than 10 years, the school has been serving the community by offering tutorial services of high teaching quality and has gained appreciation from the local residents;
- (b) the applied use providing regular tutorial courses shall not cause any negative impact to the neighbourhood's safety;
- (c) the existing back lane is a passage commonly accessed by both the users of the Premises and other users of the same building. It shall be maintained as a common passage and shall not be used for other purposes; and
- (d) the school provides a curriculum for secondary school students only, with most of them either living or attending schools in the nearby area. These students commute to and from the Premises on foot, without the need for parental pick-up and school buses arrangement. Hence, the application does not require coach parking and L/UL facilities, and will not generate any additional burden or congestion on the local footpath and traffic road. The classrooms operate on staggered schedules, allowing buffer time for clean-up between classes and preventing overcrowding. Based on past experience operating the school at its previous location on Junction Road, there were no occurrences of parents or students waiting along the footpath that could impede pedestrian movement.

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

The applicant is not the “current land owner” but has complied with the requirements as set out in the Town Planning Board (TPB) Guidelines on Satisfying the ‘Owner’s Consent/Notification’ Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by notifying the land owner(s). Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The TPB Guidelines No. 40 for “Application for Tutorial School under Section 16 of the Town Planning Ordinance” (TPB PG-No. 40) promulgated in February 2008 is relevant to this application. The relevant main assessment criteria are summarized as follows:

- (a) the proposed tutorial school should not be incompatible with other uses within the same building. In assessing the compatibility with other uses within the same building or surrounding development, consideration will normally be given only to the permitted uses within the building(s);
- (b) to avoid causing disturbance or nuisance to the local residents, tutorial school will normally not be permitted within a residential building or the domestic portion of a composite commercial/residential building unless the proposed access to the application premises will not cause disturbance or nuisance to the local residents;
- (c) the proposed access (entrance) to the tutorial school of a residential building or the domestic portion of a composite building must be separated from that of the domestic portion of the building by way of separate stairways and/or lifts/escalators exclusively serving the tutorial school so as to minimize any disturbance to the residents in the same building. These separate stairways and/or lifts/escalators should be able to cope with the number of students going into and leaving the premises. Unless an applicant can come up with practical and implementable proposals to demonstrate the proposed tutorial school would not create nuisances to the residents, access to the tutorial school through the common area of the residential development is generally not supported as the amenities of the local residents will be affected. Proposed access should not affect the existing means of escape provisions of the building. Otherwise, approval of Building Authority should be obtained. For tutorial schools of a considerable scale, i.e. with 120 or more students attending classes at the same time, proper parking and L/UL facilities should be provided in accordance with the requirements stipulated in the Hong Kong Planning Standards and Guidelines for primary or secondary schools;
- (d) the views of the public on the proposed tutorial school will be taken into account by the Board in consideration of the application; and
- (e) the Fire Services Department (FSD) and the Buildings Department (BD) should be satisfied with the proposals to comply with the fire and building safety requirements

for the proposed tutorial school.

5. **Previous Application**

There is no previous application in respect of the Premises.

6. **Similar Applications**

- 6.1 There are two similar planning applications for tutorial school of similar scale under “R(B)” zone on the OZP (**Plan A-1**). Both applications were approved with conditions by the Metro Planning Committee (the Committee) (i.e. No. A/K10/228 in 2008 and No. A/K10/257 in 2017 on a temporary basis until 28.7.2022) mainly for the reasons that the applied use was considered not incompatible with other uses within the same building and the surrounding areas, and would not cause disturbance/nuisance to local residents.
- 6.2 Details of the similar applications are summarized at **Appendix II** for Members’ reference.

7. **The Premises and Its Surrounding Areas** (Plans A-1 and A-2 and photos on Plans A-3 to A-5)

- 7.1 The location and current condition of the Premises are detailed in paragraph 1.2. Moreover, there is an exit at the rear of the Premises to the back lane that provides access to Junction Road and Grampian Court.
- 7.2 The subject building was completed in 1956. According to the Occupation Permit of the building, the building is for domestic use. The current uses of the building by floor are summarized as follows:

Floors	Uses
G/F	Tutorial schools (the school under application and another tutorial school)
1/F – 4/F	Domestic units

- 7.3 The surrounding areas have the following characteristics:
- (a) the subject building is located in an area mainly with low to medium-density residential developments. Some commercial uses, such as vehicle repair workshop, tutorial schools/learning centres, barber shop, beauty parlour, laundry shop, medical/health centre and eating places are found in the lower floors of the buildings in the area;
- (b) there are some tutorial schools/learning centres located along Junction Road; two

primary schools (i.e. Iu Shan School and Holy Family Canossian School) to the further north across Nga Tsin Wai Road and Carpenter Road; and a whole building of education centre (i.e. Smart A – Kowloon City) to the south end of Junction Road; and

(c) the area is well-served by public transport.

8. Planning Intention

The “R(B)” zone is intended primarily for medium-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

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/Kowloon East, Lands Department (DLO/KE, LandsD):

- (a) no objection to the application; and
- (b) the Premises is located within NKIL No. 3650 (the Lot) which is held under Government Lease for a term up to 30.6.2047. Pursuant to the lease governing the Lot, the G/F may be used for non-industrial purposes. The use at the Premises is acceptable under the lease conditions.

Building Matters

9.1.2 Comments of the Chief Building Surveyor/Kowloon, BD (CBS/K, BD):

- (a) no objection in principle under the Buildings Ordinance (BO) subject to the following comments:
 - (i) all building works/change of use are subject to compliance with the BO. The applicant’s attention is drawn to the following:
 - a. adequate natural lighting and ventilation should be provided for the ancillary office and toilets in the tutorial school in accordance with the Building (Planning) Regulations (B(P)R) 30 and 36.

- b. adequate means of escape should be provided in accordance with B(P)R 41(1) and the Code of Practice for Fire Safety in Buildings 2011 (FS Code).
 - c. adequate fire resisting separation between the Premises and the remaining portion of the building by fire barriers should be provided in accordance with Building (Construction) Regulation 35 and the FS Code.
 - d. adequate provision of barrier free access should be provided in accordance with the B(P)R 72 and Design Manual: Barrier Free Access 2008.
- (ii) for unauthorised building works (UBW) erected on private land/buildings, enforcement action may be taken by BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any UBW on the application site under the BO;
- (iii) the applicant's attention should be drawn to Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers APP-47 that the Building Authority has no powers to give retrospective approval or consent for any UBW; and
- (iv) detailed comments under the BO can only be provided at the building plans submission stage.

Traffic

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

He has no adverse comment on the application having considered that the applicant has confirmed in the FI that the tutorial school would serve secondary school students only who are mainly local residents, parents or guardians waiting for picking up their children on the public footpath would be unlikely. The applicant also mentioned that the class starting hours and dismissal hours would be staggered to minimize the crowd near the entrance/exit.

Environment

9.1.4 Comments of the Director of Environmental Protection (DEP):

Given that the small scale and nature of the tutorial school, adverse environmental impacts associated with the application are not anticipated. He has no objection to the tutorial school from the environmental planning perspective.

Fire Safety

9.1.5 Comments of the Director of Fire Services (D of FS):

- (a) no specific comment on the application; and
- (b) the tutorial school under the application is already in operation and the current fire service installations are satisfactory. Nevertheless, if there are minor building works or alterations and additions works in the subject location, detailed fire services requirements will be formulated upon receipt of formal submission of general building plans.

Education

9.1.6 Comments of the Secretary for Education (SED):

- (a) according to section 3(1) of the Education Ordinance (Cap. 279) (EO), a “school” means an institution, organization or establishment which provides for 20 or more persons during any one day or 8 or more persons at any one time, any nursery, kindergarten, primary, secondary or post secondary education or any other educational course by any means, including correspondence delivered by hand or through the postal services. Any institution, organization or establishment which provides educational courses with the number(s) of students attending these courses meeting the number(s) stipulated in the above definition of “school” is required to be registered/provisionally registered in accordance with Section 10 of the EO; and
- (b) no application for registration as a school/extension of school premises has been received for the Premises as at 23.1.2024.

Electricity Supply Safety

9.1.7 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) no particular comment from electricity supply safety aspect; and
- (b) in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans to find out whether there is any underground cable within and/or in the vicinity of the concerned site. The applicant should be reminded to observe the Electricity Supply Lines (Protection) Regulation (the Regulation) and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

9.2 The following Government departments have no comment on the application:

- (a) Commissioner of Police (C of P);
- (b) Chief Highway Engineer/Kowloon, Highways Department (HyD);
- (c) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD);
- (e) Project Manager (East), Civil Engineering and Development Department (PM(E), CEDD); and
- (f) District Officer (Kowloon City), Home Affairs Department (DO(KC), HAD).

10. Public Comments Received During Statutory Publication Period

During the statutory public inspection period, one public comment was received in favour of the application based on the low-rise character of the zoning and the school use is ideal in the school area of Kowloon Tong.

11. Planning Considerations and Assessments

11.1 The application is for tutorial school use on part of the G/F of a residential development in “R(B)” zone, which is primarily intended for medium-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. The tutorial school comprises mainly 5 classrooms and ancillary offices/staff areas, with a maximum capacity of 40 students and 10 teachers/staff. The school hours are from 4:00pm to 8:00pm from Mondays to Saturdays.

11.2 The tutorial school complies with TPB PG-No.40 in the following aspects:

- (a) the Premises is located on the G/F of a 5-storey residential building. The tutorial school is considered not incompatible with other uses within the same building and the surrounding developments;
- (b) the main entrance/exit to the Premises at Junction Road is separated from the entrance of domestic portion of the building. Since the tutorial school can be accessed directly from the main road without the need to route through common areas of the subject building, disturbance or nuisance to the residents of the development is not anticipated; and
- (c) D of FS and CBS/K of BD have no in-principle objection to/adverse comment on the application from fire and building safety viewpoints.

11.3 According to the submission, no parking spaces and L/UL facilities has been proposed. The majority of their students are either living or attending schools in the

nearby area and would commute to/from the Premises on foot, without the need for parental pick-up and school buses arrangement, and no additional parking demand and adverse traffic impact on the local footpath and traffic road would be generated. C for T and C of P have no comment on the application.

- 11.4 Given the small scale and nature of the school, adverse environmental impacts associated with the application are not anticipated, DEP has no objection from environmental perspective. Government departments consulted, including DLO/KE, LandsD, CE/MS, DSD, CE/Construction, WSD and DO(KC), HAD, and those mentioned above have no objection to/comment on the application.
- 11.5 Two similar applications for tutorial school within “R(B)” zone in the vicinity were approved by the Committee for reasons that the applied use was considered not incompatible with other uses within the same building and the surrounding areas, and would not cause disturbance/nuisance to local residents. Approval of the current application is not inconsistent with previous decisions of the Committee.
- 11.6 One public comment was received during the statutory publication period, which supported the application.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11, and having taken into account the public comment mentioned in para. 10 above, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, no time clause for commencement for the development is proposed as the school (tutorial school) use under application is already in operation. The following advisory clauses are also suggested for Members’ reference:

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

The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

- 13.1 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.

13.2 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 29.12.2023
Appendix Ia	Supplementary Plans received on 3.1.2024
Appendix Ib	FI received on 22.1.2024
Appendix Ic	FI received on 6.2.2024
Appendix II	Similar Applications for School (Tutorial School) Use within “R(B)” Zone in the Same OZP
Appendix III	Public Comment
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Building Record Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3 to A-5	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2024**