

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K5/835

- Applicant** : Cheung Kong Fashion Wholesale Plaza Co. Limited represented by Grandmax Surveyors Limited
- Premises** : Portion of Workshop A4, G/F, Block A, Hong Kong Industrial Centre, 489-491 Castle Peak Road, Lai Chi Kok, Kowloon
- Floor Area** : About 81m²
- Lease** : New Kowloon Inland Lot (NKIL) No. 3515 s.C, s.D and s.F
- (a) governed by Conditions of Sale No. 4268 dated 1.4.1948 as varied or modified by Conditions of Exchange No. 4481 dated 28.8.1950 for factory purposes
- (b) permitted for canteen purposes by a Waiver Letter dated 30.8.2002
- Plan** : Approved Cheung Sha Wan Outline Zoning Plan (OZP) No. S/K5/37
- Zoning** : “Other Specified Uses” annotated “Business (2)” (“OU(B)2”)
- (a) maximum plot ratio (PR) of 12
- (b) maximum building height (BH) of 130mPD
- (c) minimum setback of 3.5m from the lot boundary abutting Castle Peak Road shall be provided
- Application** : Proposed Shop and Services (Fast Food Counter and Local Provisions Store)

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for proposed ‘Shop and Services (Fast Food Counter and Local Provisions Store)’. The Premises occupies a portion of Workshop A4 on G/F of an existing industrial building, namely Block A of Hong Kong Industrial Building, which falls within an area zoned “OU(B)2” on the approved Cheung Sha Wan OZP No. S/K5/37 (**Plan A-1**). According to Schedule II of the Notes of the OZP for the “OU(B)” zone applicable to industrial or industrial-office (I-O) building, ‘Shop and Services (not

elsewhere specified)' on G/F of an industrial building requires planning permission from the Town Planning Board (the Board).

- 1.2 The floor plans and layout plan showing the Premises, as submitted by the applicant, are at **Drawings A-1, A-2 and A-3** respectively. According to the applicant's submission, the Premises is subdivided into four smaller units (i.e. Workshops A4-A, A4-B, A4-C and A4-D) for the proposed use and are accessible directly from Tung Chau West Street (**Drawing A-3**). Workshops A4-A, A4-B and A4-D are currently vacant while Workshop A4-C is currently used as a fast food counter without valid planning permission (**Plan A-3**).
- 1.3 In support of the application, the applicant has submitted the following documents:
 - (a) Application form received on 5.7.2021 and (**Appendix I**) supplementary information received on 7.7.2021
 - (b) Letter dated 12.8.2021 providing clarification on the (**Appendix Ia**) operation details
[Accepted and exempted from the publication and recounting requirements]

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are set out at **Appendices I and Ia**. They are summarised as follows:

- (a) the proposed use is compatible with the uses in the surroundings and it is in line with the planning intention of the "OU(B)" zone and the Town Planning Board Guidelines for Development within "OU(B)" Zone (TPB PG-No. 22D);
- (b) the proposed use would not be counted up to the maximum permissible limit of 460m² for aggregate commercial floor area on G/F of an industrial building, which is equipped with a sprinkler system, under TPB PG-No. 22D;
- (c) there is a demand for shop and services use in the neighbourhood as there are growing number of redevelopments in the locality in recent years;
- (d) the Premises is accessible via its frontage along Tung Chau West Street. The proposed use will not induce adverse impact and fire risk and the applicant would implement fire safety installations at the Premise. The applicant is willing to engage fire services consultant to review and upgrade/provide suitable fire services installation if necessary;
- (e) there are numerous similar approved applications for 'Shop and Services' uses in the surrounding area. Favourable consideration should be given to the subject application; and
- (f) no seating accommodation would be provided in the Premises for the proposed fast food counter use, to be operated under food factory licence only.

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

The applicant is the sole “current land owner” of the Premises. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for Development within “OU(B)” Zone (TPB PG-No. 22D) promulgated in September 2007 are relevant in the following aspects:

- (a) the “OU(B)” zone has been introduced to allow maximum flexibility in the use of existing industrial and I-O buildings as well as in the development of new buildings for both commercial and clean industrial uses. The planning intention of the “OU(B)” zone is primarily for general employment uses;
- (b) whilst it is the intention to provide greater flexibility in the use of the existing industrial or I-O buildings before such buildings are redeveloped, it is necessary to ensure that the fire safety and environmental concerns are properly addressed. In view of the possible presence of existing polluting and hazardous industrial uses, it is necessary to ensure compatibility of the uses within the same building until the whole building is modified/converted to accommodate the new non-polluting and less fire hazard-prone uses;
- (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/I-O building with and without sprinkler systems should as a general principle not exceed 460m² and 230m² respectively. The above limits on 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 or I-O building. These uses include bank, fast food counter, electrical shop, local provisions store and showroom in connection with the main industrial use; and
- (d) for all new development, redevelopment, conversion and material change of use, adequate parking and loading/unloading spaces should be provided in accordance with the requirements of the Hong Kong Planning Standards and Guidelines, and all other statutory or non-statutory requirements of relevant Government departments must also be met.

5. Previous Application (Plan A-2a)

- 5.1 The Premises is the subject of one previous planning application (No. A/K5/771) which was submitted by a different applicant (**Appendix II**). Application No. A/K5/771 covering the whole Workshop A4 of the subject industrial building for ‘Shop and Services (Showroom)’ use was rejected by the Committee on 8.1.2016 for the following reasons:

- (a) the shop and services (showroom) use under application was accountable for the aggregate commercial floor area on the ground floor of the subject industrial building and did not comply with TPB PG-No. 22D as the total floor area accountable for the aggregate commercial floor area had exceeded the maximum permissible limit of 460m²; and
- (b) approval of the application would set an undesirable precedent for similar applications, thereby resulting in adverse fire safety impact on such industrial buildings equipped with a sprinkler system.

6. Similar Applications

6.1 The Committee has considered a total of 16 applications for 'Shop and Services' uses on G/F of the subject industrial building (**Plan A-2a**). The Committee approved 13 of them while rejecting three (Application No. A/K5/584, A/K5/771 and A/K5/809) on the grounds of exceeding the maximum permissible limit of the aggregate commercial floor area under TPB PG-No. 22D and setting an undesirable precedent for similar applications. The details of the approved applications are shown in the table below:

Application No.	Unit No.	Proposed Use	Floor Area (m ²)	Date of Consideration	Decision
Uses applicable for the maximum permissible limit of 460m ² for aggregate commercial floor area on G/F of an industrial building (with sprinkler systems)					
A/K5/571	Portion of A8	Shop and Services (Retail Shop)	4	24.9.2004 (Lapsed)	Approved with conditions
A/K5/664	Portion of A1	Shop and Services (Fast Food Shop, Retail Shop, Showroom)	121.05 (9.55m ² for retail shop applicable for the aggregate commercial floor area)	19.12.2008 (Revoked)	Approved with conditions
A/K5/708	A9 and A10	Proposed Shop and Services	400	2.9.2011 (Lapsed)	Approved with conditions
A/K5/752	A6	Shop and Services	117.9	9.5.2014	Approved with conditions
A/K5/761	A5 and A6	Shop and Services	259.224	2.1.2015	Approved with conditions
A/K5/767	Portion of A8	Proposed Shop and Services	200	17.7.2015	Approved with conditions

Application No.	Unit No.	Proposed Use	Floor Area (m ²)	Date of Consideration	Decision
Total Approved Commercial Floor Area*:			459.224m ²		
Uses not applicable for the maximum permissible limit of 460m ² for aggregate commercial floor area on G/F of an industrial building (with sprinkler systems)					
A/K5/556	Portion of A3	Shop and Services (Showrooms for Garments)	80.19	27.2.2004	Approved with conditions
A/K5/668	A2	Proposed Temporary Shop and Services (Showrooms for Garments) for a Period of 3 Years	215.68	27.2.2009 (Expired)	Approved with conditions
A/K5/670	A9 and A10	Shop and Services (Showrooms for Garments)	400	13.3.2009	Approved with conditions
A/K5/674	A1	Shop and Services (Showrooms)	129.11	8.5.2009 (Lapsed)	Approved with conditions
A/K5/719	A6	Shop and Services (Showrooms)	117.9	6.7.2012 (Revoked)	Approved with conditions
A/K5/766	Portion of A7 and Portion of A8	Proposed Shop and Services (Local Provisions Store and/ or Fast Food Counter)	123	17.7.2015 (Lapsed)	Approved with conditions
A/K5/802	Portion of A2	Shop and Services (Fast Food Shop)	13.2	21.12.2018	Approved with conditions

**The total floor areas have excluded the floor areas in overlapping premises and approval cases of which planning permissions have been lapsed/revoked.*

- 6.2 According to TPB PG-No. 22D, the proposed ‘Shop and Services (Fast Food Counter and Local Provisions Store)’ use under the application is regarded as a use which is ancillary to or for the purposes of supporting the industrial activities and the routine activities of the workers in the industrial or I-O building. The limit on aggregate commercial floor areas on G/F of an industrial building is not applicable to the proposed use.
- 6.3 Since 2001, the Committee has considered 156 planning applications for various ‘Shop and Services’ uses on G/F of industrial and I-O buildings within the “OU(B)”

zone in the Cheung Sha Wan Industrial/Business Area. The Committee approved 146 of them while rejecting 10 mainly for fire safety reasons.

7. The Site and Its Surrounding Areas
(Plans A-1, A-2 and A-2a and Photos on Plan A-3)

7.1 The Premises:

- (a) occupies portion of Workshop A4 on G/F of Block A of Hong Kong Industrial Centre;
- (b) has direct frontage along Tung Chau West Street; and
- (c) is sub-divided into four units. Workshops A4-A, A4-B and A4-D are currently vacant while Workshop A4-C is currently used as a fast food counter without planning permission.

7.2 The subject industrial building has the following characteristics:

- (a) is a 13-storey industrial building completed in 1982 and equipped with a sprinkler system; and
- (b) is currently used for the following purposes:

Floor	Main Uses
G/F	The Premises , showrooms for garments/accessories, food kiosks, shops, restaurants and courier services
1/F to 4/F	Warehouses and offices
5/F	Offices
6/F to 12/F	Warehouses and offices

7.3 The surrounding areas have the following characteristics:

- (a) it is an established industrial/business area in Cheung Sha Wan (which was rezoned from “I” to “OU(B)”);
- (b) the subject industrial building is surrounded mainly by industrial and I-O buildings with some ‘Shop and Service’ uses on G/F; and
- (c) it is easily accessible by various modes of public transport with MTR Lai Chi Kok Station located 50m away to the south of the subject industrial building (**Plan A-2**).

8. Planning Intention

The planning intention of “OU(B)” zone is primarily for general business uses. A mix of information technology and telecommunications industries, non-polluting industrial, office and other commercial uses are always permitted in new ‘business’ buildings. Less

fire hazard-prone office use that would not involve direct provision of customer services or goods to the general public is always permitted in existing industrial or I-O buildings.

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 West, Lands Department (DLO/KW, LandsD):

- (a) the Premises falls within NKIL No. 3515 s.C. s.D and s.F (the Lots) which are governed by Conditions of Sale No. 4268 dated 1.4.1948 as varied or modified by Condition of Exchange No. 4481 dated 28.8.1950 (the Conditions) for factory purposes. By a Waiver Letter dated 30.8.2002, the Premises is permitted for canteen purposes; and
- (b) the proposed 'Shop and Services (Fast Food Counter and Local Provisions Store)' use at the Premises does not comply with the Conditions nor the Waiver Letter. Should the planning application be approved, the owner of the Premises has to apply to LandsD for a waiver or no-objection letter for the proposed use. However, there is no guarantee that approval will be given. Such application, if received by LandsD, will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event any such application is approved, it would be subject to such terms and conditions including, among others, the payment of waiver fee/premium and administrative fee as may be imposed by LandsD.

Building Matters

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

- (a) no in-principle objection to the application;
- (b) all building works, alterations and additions works or change of use are subject to compliance with the Buildings Ordinance (BO). The applicant is advised to appoint an Authorized Person to ensure any building works, alterations and additions works or change of use are in compliance with BO, including (but not limited to) the following:
 - (i) adequate means of escape should be provided to the subject premises in accordance with the Building (Planning) Regulation 41(1) and the Code of Practice for Fire Safety in Buildings 2011 (FS Code);

- (ii) the Premises should be separated from the remaining portion of the building by fire barriers of adequate fire resistance rating pursuant to the Building (Construction) Regulation 35 and the FS Code;
 - (iii) adequate provision of sanitary fitments should be provided to the subject premises in accordance with the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations 7A; and
 - (iv) adequate provision of barrier free access to the subject premises should be provided in accordance with the Building (Planning) Regulations 72 and Design Manual: Barrier Free Access 2008;
- (c) for unauthorized building works (UBW) erected on private land/buildings, enforcement action may be taken by the Building Authority 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;
- (d) attention of the applicant should be drawn to Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers PNAP APP-47 that the Building Authority has no powers to give retrospective approval or consent for any UBW; and
- (e) detailed comments under the BO will be given at the building plan submission stage.

Fire Safety

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

- (a) no in-principle objection to the application provided that the proposed shop and services (fast food counter and local provisions store) shall only be licensed as food factories (only applicable to fast food counter use) and sited at street level only, and fire service installations are provided to the satisfactory of D of FS;
- (b) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans or referral from the licensing authority; and
- (c) the fast food shop if licensed and operated as 'general restaurant' or 'light refreshment restaurant' will not be acceptable. According to TPB PG-No. 22D, the limits on commercial floor area do not apply to the proposed fast food counter which should be sited at street level without seating accommodation and licensed as food factory.

Traffic

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

- (a) no in-principle objection to the application at nil provisions of car parking and loading/unloading spaces given that the site is small with constrained layout, conveniently located to mass transport/public transport services, and the development scale is small; and
- (b) the applicant should be reminded that C for T has the rights to impose, alter or cancel any car parking, loading/unloading facilities and/or any no-stopping restrictions, on all local roads to cope with changing traffic conditions and needs. The frontage road space would not be reserved for any exclusive uses of the subject development.

Other Aspect

9.1.5 Comments from the Director of Food and Environmental Hygiene (DFEH):

- (a) no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should arrange its disposal properly at their own expenses; and
- (b) proper licence/permit shall be obtained from Food and Environmental Hygiene Department (FEHD) if there is any food business regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public:
 - (i) under the Food Business Regulation, Cap. 132X, a Food Factory Licence must be obtained from FEHD for food business which involves the preparation of food for sale for human consumption off the premises before commencement of such business; and
 - (ii) the application for Food Factory Licence, if acceptable by FEHD, will be referred to relevant Government departments, such as LandsD and the Planning Department for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);

- (c) Chief Highway Engineer/Kowloon, Highways Department (CHE/K, HyD);
- (d) Commissioner of Police (C of P); and
- (e) District Officer (Sham Shui Po), Home Affairs Department (DO(SSP), HAD).

10. Public Comment Received During Statutory Publication Period

During the three-week statutory public inspection period, one public comment was received from an individual stating no comment on the application.

11. Planning Considerations and Assessments

- 11.1 The application is to seek planning permission for proposed 'Shop and Services (Fast Food Counter and Local Provisions Store)' use at the Premises. The planning intention of the "OU(B)" zone is primarily for general business uses. It allows greater flexibility in the use of the existing industrial or I-O buildings provided that the use would not result in adverse fire safety or environmental impacts. The proposed use at the Premises is considered generally in line with the planning intention of the "OU(B)" zone.
- 11.2 The Cheung Sha Wan Industrial/Business Area is being transformed with more commercial/business buildings. There were many similar applications for 'Shop and Services' use approved on the G/F units of other industrial and I-O buildings in the vicinity of the Premises. The proposed use is considered compatible with the changing land use character of the area. Moreover, the proposed use is considered not incompatible with other uses of the same industrial building which mainly comprises shop and services on G/F and industrial-related offices and warehouses on the upper floors.
- 11.3 The proposed use in general complies with TPB PG-No. 22D in that it would not induce adverse fire safety, traffic and infrastructural impacts on the developments within the subject building and the adjacent areas. Relevant Government departments including D of FS, C for T, CBS/K of BD, DFEH, CE/C of WSD and CE/MS of DSD have no comment on/no objection to the application.
- 11.4 According to TPB PG-No. 22D, 'Fast Food Counter' which is located on street level without seating accommodation and licensed as food factory and 'Local Provisions Store' would not be counted up to the aggregate commercial floor area. The Premises is located on G/F of the existing industrial building with direct frontage onto Tung Chau West Street. The applicant indicates that no seating accommodation will be provided inside the fast food counter to be operated under a food factory licence. As suggested by D of FS, an approval condition to require the submission and implementation of fire service installations to his satisfaction is recommended.
- 11.5 A total of 13 applications for 'Shop and Services' use on G/F of the subject industrial building were approved with conditions by the Committee since 2004 (Table of paragraph 6.1 above and **Plan A-2a** refer). Application No. A/K5/771 for 'Shop and Services (Showroom)' submitted by a different applicant at the same Premises was rejected on the grounds that the proposed use did not comply with TPB PG-No. 22D

as the total floor area accountable for the aggregate commercial floor area would exceed the maximum permissible limit of 460m² and would set an undesirable precedent for similar applications. According to TPB PG-No. 22D, the currently proposed 'Fast Food Counter' and 'Local Provisions Store' uses of the Premises would not be counted up to the aggregate commercial floor area. As there is no change in circumstances, approval of the application is consistent with the previous decisions of the Committee on the similar applications.

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 paragraph 10 above, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, no time clause on commencement is proposed as the 'Shop and Services (Fast Food Counter and Local Provisions Store)' use under application is already in operation. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval conditions

- (a) the submission and implementation of fire service installations within six months from the date of the approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 27.2.2022; 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 III**.

- 12.3 There is no strong planning 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.
- 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 5.7.2021 and supplementary information received on 7.7.2021
Appendix Ia	Letter dated 12.8.2021 providing clarification on the operation details
Appendix II	Previous Application
Appendix III	Advisory Clauses
Drawings A-1 and A-2	Floor Plans
Drawing A-3	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-2a	Ground Floor Plan of Block A, Hong Kong Industrial Centre
Plan A-3	Site Photos

**PLANNING DEPARTMENT
AUGUST 2021**