

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K5/852

- Applicant** : East Global Properties Limited represented by Grandmax Surveyors Limited
- Premises** : Portion of Workshop A2, G/F, Block A, Hong Kong Industrial Centre, 489-491 Castle Peak Road, Lai Chi Kok, Kowloon
- Floor Area** : About 97m²
- Lease** : New Kowloon Inland Lot (NKIL) No. 3515 s.C, s.D and s.F
- (a) governed by Conditions of Sale No. UB4268 dated 1.4.1948 as varied or modified by Conditions of Exchange (and Modification) No. 4481 dated 28.8.1950 for factory purposes
- (b) permitted for banking purposes by a No-objection Letter dated 30.9.1982
- Plan** : Draft Cheung Sha Wan Outline Zoning Plan (OZP) No. S/K5/38
- Zoning** : “Other Specified Uses” annotated “Business (2)” (“OU(B)2”)
- (a) maximum plot ratio (PR) of 12
- (b) maximum building height (BH) of 130mPD
- Application** : 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 ‘Shop and Services (Fast Food Counter and Local Provisions Store)’ use. The Premises, with an area of about 97.2m², occupies a portion of Workshop A2 on G/F of an existing industrial building which falls within an area zoned “OU(B)2” on the draft Cheung Sha Wan OZP No. S/K5/38 (**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)’ use on G/F of an industrial building requires planning permission from the Town Planning Board (the Board).

- 1.2 The Premises is the subject of two previous applications No. A/K5/668 and A/K5/809 submitted by the same applicant for proposed temporary 'Shop and Services (Showrooms for Garments)' use for a period of 3 years and 'Shop and Services' use respectively (**Plan A-2a**). The former was approved with conditions by the Metro Planning Committee (the Committee) of the Board. The latter was rejected for fire safety reasons (see paragraph 5 and **Appendix II** for details).
- 1.3 The floor and layout plans showing the Premises, as submitted by the applicant, are at **Drawings A-1 and A-2** respectively. According to the applicant's submission, the Premises has been subdivided into four units (i.e. Workshops A2-B, A2-C, A2-E and A2-F), all with shop frontage towards Castle Peak Road or Tung Chau West Street (**Drawing A-2**). Workshop A2-B is currently under renovation and workshops A2-C, A2-E and A2-F are currently used as three fast food shops without valid planning permissions (**Plan A-2a**).
- 1.4 In support of the application, the applicant has submitted an application form which was received on 9.6.2022 (**Appendix I**).

2. Justifications from the Applicant

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

- (a) the applied use is in line with the planning intention of the "OU(B)" zone and compatible with the uses in the surrounding areas;
- (b) the applied use would not be counted up to the maximum permissible limit of 460m² for aggregate commercial floor area on G/F of the subject industrial building, which is equipped with a sprinkler system, under TPB PG-No. 22D;
- (c) there is a strong demand for shop and services use in the neighbourhood;
- (d) the applied use will not induce adverse impact and fire risk and the applicant is willing to engage fire services consultant to review and upgrade/provide suitable fire services installation if necessary; and
- (e) numerous similar applications in the surrounding area have been approved.

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. In all cases, separate means of escape should be available for the commercial portion; 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 two previous planning applications (Nos. A/K5/668 and 809) which were submitted by the same applicant of the current application.
- 5.2 Application No. A/K5/668 for proposed temporary ‘Shop and Services (Showroom for Garments)’ use for a period of 3 years was approved with conditions by the Committee on 27.2.2009. The planning permission expired on 27.2.2012.
- 5.3 Application No. A/K5/809 for ‘Shop and Services’ use was rejected by the Committee on 20.9.2019 as the total floor area accountable for the aggregate commercial floor area on G/F of the subject industrial building would exceed the maximum permissible limit of 460m² for the industrial building with sprinkler systems as specified under TPB PG-No. 22D and the application was not acceptable from fire safety point of view.
- 5.4 Details of the previous applications are at **Appendix II**.

6. Similar Applications

- 6.1 The Committee has considered a total of 17 applications for ‘Shop and Services’ uses on G/F of the subject industrial building (**Plan A-2a**). The Committee approved 14 of them and rejected three (Applications No. A/K5/584, A/K5/771 and A/K5/809) mainly on the grounds of exceeding the maximum permissible limit of the aggregate commercial floor area under TPB PG-No. 22D.
- 6.2 Details of the similar applications with uses applicable/not applicable for the maximum permissible limit are at **Appendix III**. The limit on aggregate commercial floor areas on G/F of an industrial building is not applicable to the current application as it is regarded a type of use supporting the routine activities of the workers as explained in paragraph 4 (c) above.
- 6.3 Since 2001, the Committee has considered 162 planning applications for various ‘Shop and Services’ uses on G/F of industrial buildings and I-O buildings within the “OU(B)” zone in the Cheung Sha Wan Industrial/Business Area (CSWIBA). The Committee approved 152 of these applications and rejected the remaining 10. Failure to address fire safety concerns was the reason for rejection most of the rejected cases.

7. The Site and Its Surrounding Areas (Plans A-1 to A-2a and Photos on Plans A-3 to A-4)

- 7.1 The Premises:
- (a) occupies portion of Workshop A2 on G/F of Block A of Hong Kong Industrial Centre and has direct shop frontage to Castle Peak Road or Tung Chau West Street; and
 - (b) subdivided into four units. Workshop A2-B is currently under renovation while workshops A2-C, A2-E and A2-F are currently used as three fast food shops without planning permissions.
- 7.2 The subject industrial building has the following characteristics:
- (a) is a 14-storey industrial building (including one level of basement for car parking spaces) 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, fast food shops, shops, canteen, bakery* and courier services*
1/F to 6/F	Warehouses and ancillary offices
7/F to 12/F	Workshops and ancillary offices

*No record of planning approval granted for the bakery and the courier services.

7.3 The surrounding areas have the following characteristics:

- (a) located in the established CSWIBA (which was rezoned from “I” to “OU(B)” in 2001), mainly with industrial and I-O buildings and some ‘Shop and Services’ uses found on G/F; and
- (b) easily accessible by various modes of public transport with Mass Transit Railway Lai Chi Kok Station located at about 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 which is governed by the Conditions of Sale No. UB4268 dated 1.4.1948 as varied or modified by Conditions of Exchange (and Modification) No. 4481 dated 28.8.1950 (the Conditions) for factory purposes. By a No-objection Letter dated 30.9.1982, the Premises is further permitted for banking 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 No-objection 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 proposal. However, there is no guarantee that approval will be given and he shall reserve his comments on such upon receipt of the owner’s formal application. Such application, if received by LandsD, will be considered by LandsD acting in the capacity as the landlord at its sole discretion and it will be subject to such terms and conditions including, amongst others, payment of waiver fee/premium and administrative fee as may be imposed by LandsD.

Fire Safety

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

- (a) no in-principle objection to the application subject to:
 - (i) fire service installations and equipment being provided to the satisfactory of D of FS. Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans; and
 - (ii) means of escape completely separated from the industrial portion are available for the subject unit; and
- (b) regarding matters related to fire resistance 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 (BA). Should the application be approved, 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”.

Building Matters

9.1.3 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 implemented 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 (B(P)R) 41(1) and the Code of Practice for Fire Safety in Buildings 2011 (FS Code);
 - (ii) the subject 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 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; and

- (iv) adequate provision of barrier free access to the subject premises should be provided in accordance with B(P)R 72 and the Design Manual: Barrier Free Access 2008;
- (c) for unauthorized building works (UBW) erected on private land/buildings, enforcement action may be taken by BA 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 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 BA has no powers to give retrospective approval or consent for any UBW;
- (e) detailed comments under BO will be given at the building plan submission stage; and
- (f) if the proposed use under the application is subject to the issue of a licence, the applicant should be reminded that any existing structures on the application site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.

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 the small and constrained site layout and small scale of developments; 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 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, two public comments were received, including one comment from an individual without stating any particular views and the other one from an individual supporting the application on the ground that more choice of food business will be provided (**Appendix IV**).

11. Planning Considerations and Assessments

- 11.1 The application is to seek planning permission to use the Premises for ‘Shop and Services (Fast Food Counter and Local Provisions Store)’ use. 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 applied use at the Premises is considered generally in line with the planning intention of the “OU(B)” zone.

- 11.2 CSWIBA is being transformed into commercial/business area with many similar applications for 'Shop and Services' use approved on G/F of other industrial and I-O buildings in the vicinity of the Premises. The applied use is considered compatible with the changing land use character of the area. Moreover, the applied 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 applied use 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/ 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 shop frontage to Castle Peak Road or Tung Chau West Street. 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 14 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). There is no change in planning circumstances and the approval of the application is consistent with the previous decisions of the Committee on similar applications.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments 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 and equipment 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 29.1.2023; 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 V**.

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 9.6.2022
Appendix II	Previous Applications
Appendix III	Similar Applications
Appendix IV	Public Comments
Appendix V	Advisory Clauses
Drawings A-1	Floor Plan
Drawing A-2	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
Plans A-3 to A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2022**