

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K5/864

- Applicant** : Global Charm Investment Limited represented by Lanbase Surveyors Limited
- Premises** : Factory Nos. 1C (Part), 1D and 1E, G/F, Elite Industrial Centre, 883 Cheung Sha Wan Road, Kowloon
- Floor Area** : About 46.5m²
- Lease** : New Kowloon Inland Lot (NKIL) No. 5944
- governed by the Conditions of Sale No. 11707 dated 25.11.1983 for industrial and godown purposes or both, excluding offensive trades
- Plan** : Approved Cheung Sha Wan Outline Zoning Plan (OZP) No. S/K5/39
- Zoning** : “Other Specified Uses” annotated “Business (3)” (“OU(B)3”)
(a) maximum plot ratio (PR) of 12
(b) maximum building height (BH) of 120 metres above Principal Datum (mPD)
- Application** : Shop and Services (Fast Food Counter)

1. The Proposal

- 1.1 The applicant seeks planning permission for ‘Shop and Services (Fast Food Counter)’¹ use at the application premises (the Premises). The Premises with a floor area of 46.51m² occupies Factory Nos. 1C (Part), 1D and 1E on G/F of an existing industrial building (IB), namely Elite Industrial Centre, which falls within an area zoned “OU(B)3” on the approved Cheung Sha Wan OZP No. S/K5/39 (**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 IB requires planning permission from the Town Planning Board (the Board).

¹ According to TPB PG-No. 22D, ‘Fast Food Counter’ which is located on street level without seating accommodation and licensed as food factory would not be subject 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.

- 1.2 The Premises is the subject of three previous applications (**Plan A-2a**). The latest application (No. A/K5/700) submitted by a different applicant for wholesale trade (wholesale shop) use was approved with conditions by the Metro Planning Committee (the Committee) of the Board on 23.12.2010. The planning permission was revoked on 23.9.2011 (see paragraph 5 and **Appendix II** for details). The Premises is currently operating as 3 fast food shops without valid planning permission. The Premises has shop frontage at Cheung Sha Wan Road.
- 1.3 The proposed layout plan submitted by the applicant is at **Drawing A-1**. According to the applicant's submission, the Premises will be sub-divided into 3 units for fast food counter use.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 5.12.2023 (**Appendix I**)
 - (b) Planning Statement (**Appendix Ia**)
 - (c) Further Information (FI) received on 15.12.2023[#] (**Appendix Ib**)
 - (d) FI received on 21.12.2023[#] (**Appendix Ic**)

Remarks

[#] accepted and exempted from publication and recounting requirement

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are in **Appendices Ia to Ic**. They are summarised as follows:

- (a) there is strong demand for fast food shop in the neighbourhood with huge working population;
- (b) the applied use is in line with the planning intention of the "OU(B)" zone and compatible with the surrounding areas where retail activities are commonly found on the G/F of IBs;
- (c) the applied use would be exempted from the maximum permissible limit of 460m² for aggregate commercial floor area on G/F of the subject IB, which is equipped with a sprinkler system, under the Town Planning Board Guidelines for Development within the "OU(B)" Zone (TPB PG-No. 22D);
- (d) numerous similar applications in the subject building have been approved; and
- (e) the applied uses will not induce adverse traffic and environmental impacts.

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 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 (FSD) 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 Applications

- 5.1 The Premises is the subject of three previous applications submitted by a different applicant (**Plan A-2a**). Application No. A/K5/562 for wholesale trade (wholesale centre) use was approved with conditions by the Committee on 14.5.2004 for a period of five years and has expired. Application No. A/K5/654 for shop and services use was approved with conditions by the Committee on 28.3.2008 and lapsed on 28.3.2010 as the use had not commenced. Application No. A/K5/700 for wholesale trade (wholesale shop) use was approved with conditions by the Committee on 23.12.2010 and was revoked on 23.9.2011 due to non-compliance with the approval conditions. The grounds of approval of the aforesaid applications are that they were considered generally in line with the planning intention of the “OU(B)” zone, would not induce adverse traffic and infrastructural impacts and the

FSD has no in-principle objection to the application. Details of the previous applications are at **Appendix II**.

6. **Similar Applications**

- 6.1 The Committee has considered a total of 16 applications for ‘Shop and Services’/‘Showroom’ uses on G/F of the subject IB since 2001² (including the 3 previous applications mentioned in paragraph 5 above) (**Plan A-2a**). 15 applications were approved with conditions by the Committee on the similar grounds as the previous applications mentioned in paragraph 5 above, and one application (No. A/K5/570) was rejected by the Board upon review on 21.1.2005 on fire safety ground. The details of the approved applications are at **Appendix III**.
- 6.2 Since 2001, the Committee has considered 166 planning applications for various ‘Shop and Services’ uses on G/F of IBs and I-O buildings within the “OU(B)” zone in the Cheung Sha Wan Industrial/Business Area (CSWIBA). The Committee approved 156 of these applications on the similar grounds as the previous applications mentioned in paragraph 5 above, and rejected the remaining 10 mainly on fire safety concerns.
- 6.3 Another planning application, namely No. A/K5/865 for ‘Shop and Services’ use at the G/F of the same IB, is scheduled for consideration by the Committee in the same meeting (**Plan A-1**).

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

- 7.1 The current conditions of the Premises are detailed in paragraph 1.2 above.
- 7.2 The subject IB has the following characteristics:
- (a) completed in 1986 with 14 storeys (including 1 basement level of car parking spaces) and equipped with a sprinkler system;
 - (b) current floor uses:

Floor	Main Uses
G/F	The Premises (currently in operation), printing companies, engineering company, warehouse, money exchange stores, metal-ware shop, fast food shops* and canteens
1/F to 11/F	Warehouses, workshops/industrial-related offices

* There is no record of planning approval granted for some fast food shops.

² When the site was zoned “I” before it was rezoned to “OU(B)” in 2001, there were eight planning applications for showroom, retail shops and offices uses at the G/F of the subject industrial building. Out of these eight applications, four were approved with conditions and four were rejected. Except application No. A/K5/79, the other three approved applications either lapsed or expired and hence they are not included in **Appendix III**.

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), and occupied mainly by IBs and I-O buildings with some ‘Shop and Services’ uses on G/F; and
- (b) easily accessible by various modes of public transport with MTR Lai Chi Kok Station located at about 40m to the northwest of the subject IB (**Plan A-2**).

8. Planning Intention

The planning intention of the “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 IBs or I-O buildings.

9. Comments from Relevant Government Bureau/Departments

9.1 The following Government bureau/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. 5944 (the Lot) which is governed by the Conditions of Sale No. 11707 dated 25.11.1983 (the Conditions) for industrial and godown purposes or both, excluding offensive trades; and
- (b) the proposed ‘Shop and Services (Fast Food Counter)’ use at the Premises does not comply with the Conditions. If the planning application is approved by the Board, the owner of the Premises has to apply to LandsD for waiver or no-objection letter for the proposal. He would advise that the proposal will only be considered upon receipt of the applicant’s formal application by his office. However, there is no guarantee that the approval will be given and he shall reserve his comments on such. The application, if received by LandsD, will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the application is approved, it shall 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 D of FS:

- (a) no in-principle objection to the application subject to imposition of an approval condition requiring provision of fire service installations (FSIs) and equipment to the satisfaction of D of FS ; and
- (b) detailed comments are at **Appendix IV**.

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/change of use are subject to compliance with the Buildings Ordinance (BO);
- (c) before any new building works are carried out, prior approval and consent from the Building Authority (BA) under BO should be obtained, unless the works fall within the scope of designated minor works that can be carried out under the simplified requirements specified in the Building (Minor Works) Regulation or such works are exempted works; and
- (d) detailed comments are at **Appendix IV**.

Traffic

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

- (a) no in-principle objection to the application at nil provision of car parking and loading/unloading spaces given that the Premises are small with constrained layout, conveniently located to mass transport/public transport services, and the development scale is small; and
- (b) the applicant should note 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.

Licencing

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

proper licence/permit shall be obtained from the 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:

- (a) 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
- (b) 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 Comments Received During Statutory Publication Period

During the statutory public inspection period, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The application is to seek planning permission for ‘Shop and Services (Fast Food Counter)’ 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 IBs 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 the subject IB as well as other IBs and I-O buildings in the vicinity. 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 building which mainly comprise shop and services on G/F and warehouses, workshops and industrial-related offices on the upper floors.

- 11.3 The application complies with TPB PG-No. 22D that it would not induce adverse fire safety, traffic and infrastructural impacts on the uses/developments within the same building and the adjacent areas. Relevant Government departments including D of FS, C for T, CBS/K of BD, CE/C of WSD and CE/MS of DSD have no adverse comment on or 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 would not be counted up to the aggregate commercial floor area. The Premises is located on G/F of the existing IB with direct shop frontage to Cheung Sha Wan Road. D of FS has no in-principle objection to the application subject to an approval condition on the provision of FSIs and equipment to his satisfaction.
- 11.5 A total of 15 applications for 'Shop and Services'/'Showroom' use on the G/F of the subject IB were approved with condition(s) by the Committee since 2001 (**Appendix III** and **Plan A-2a**). 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.
- 11.6 There is no public comment received on the application.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, 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)' use is already in operation. The following conditions of the approval and advisory clauses are suggested for Members' reference:

Approval conditions

- (a) the submission and implementation of fire service installations and equipment for the application premises 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 26.7.2024; and
- (b) if the above planning condition (a) 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

- 12.3 The recommended advisory clauses are attached at **Appendix IV**.
- 12.4 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.
- 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 5.12.2023
Appendix Ia	Planning Statement
Appendix Ib	FI received on 15.12.2023
Appendix Ic	FI received on 21.12.2023
Appendix II	Previous Applications
Appendix III	Similar Applications
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-2a	Ground Floor Plan of Elite Industrial Centre
Plans A-3 to A-4	Site Photos

**PLANNING DEPARTMENT
JANUARY 2024**