

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K5/866

- Applicants** : Mr. Cheng Chun Bor and Ms. Chan Chai Ping represented by RHL Surveyors Limited
- Premises** : Flat C2 (Portion), G/F, Cheong Fat Factory Building, 265-271 Un Chau Street, Kowloon
- Floor Area** : About 11m²
- Lease** : New Kowloon Inland Lot (NKIL) No. 4181
- (a) held under Conditions of Sale No. 6387 dated 11.1.1960 restricted for industrial purposes excluding any offensive, noxious, noisome or unhealthy trade, business or manufacture
- (b) permitted for a cake shop by a Temporary Waiver granted for an initial term of 3 years certain commencing from 1.4.2003 and thereafter annually
- Plan** : Approved Cheung Sha Wan Outline Zoning Plan (OZP) No. S/K5/39
- Zoning** : “Residential (Group E) 2” (“R(E)2”)
- (a) maximum plot ratio (PR) of 9.0, of which domestic PR shall not exceed 7.5
- (b) maximum building height (BH) of 100 metres above Principal Datum (mPD)
- Application** : Shop and Services

1. The Proposal

- 1.1 The applicants seek planning permission for ‘Shop and Services’ use at the application premises (the Premises). The Premises, with a floor area of about 11m², occupies a portion of Flat C2 on G/F of an existing industrial building (IB) within an area zoned “R(E)2” 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 “R(E)” zone applicable to IB, the subject ‘Shop and Services (not elsewhere specified)’ use requires planning permission from the Town Planning Board (the Board).

1.2 The Premises is currently used for a retail shop of bakery products and fast food. As the planning approval granted to the Premises under the planning application (No. A/K5/140) in 1991 was only for a cake shop related to the factory canteen within the subject IB ¹, the fast food counter is in operation without valid planning permission. The Premises has direct shop frontage at Wing Lung Street. The layout plans submitted by the applicants are at **Drawings A-1 and A-2**.

1.3 In support of the application, the applicants have submitted the following document:

- (a) Application form received on 5.12.2023 (Appendix I)

2. Justifications from the Applicants

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

- (a) planning approval has already been given to the same flat unit for a cake shop;
- (b) the applied use on G/F of the subject IB is compatible with the various commercial uses on G/F of other existing industrial buildings in the area;
- (c) the subject IB is well-served by public transport facilities; and
- (d) the applied use will not induce adverse impacts in terms of pedestrian and traffic flow, as well as building and fire safety.

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

The applicants are the sole ‘current land owners’ of the Premises. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The subject IB was completed in 1963. The site on which the subject IB is located (“the Site”) was zoned “Industrial” (“I”) on the first Cheung Sha Wan OZP No. LK 5/25 in 1971. The Site was subsequently rezoned from “I” to “R(E)” in 1999 with a view to phasing out the obsolete industrial uses whilst allowing adequate planning control on new residential development in order to address the industrial/residential interface problem.

5. Previous Application

The Premises is the subject of a previous planning application (No. A/K5/140), which was submitted by the same applicants ² for regularising the then existing retail use for a cake shop as a result of lease enforcement action undertaken by the Lands Department (LandsD).

¹ The following approval condition was imposed under the planning application (No. A/K5/140):
“Only cake shop related to the factory canteen within the subject building will be permitted”.

² The planning application (No. A/K5/140) was submitted by Mr. Cheng Chun Bor, who also obtained consent from the co-owner, Ms. Chan Chai Ping.

The application was approved with conditions by the Metro Planning Committee (the Committee) of the Board on 28.6.1991 (**Plan A-1**).

6. **Similar Application**

There was a similar application (No. A/K5/733) for proposed shop and services (supermarket) at portion of G/F, 350-360 Fuk Wing Street zoned “R(E)2” on the OZP (**Plan A-1**). The application was rejected by the Board on 28.2.2014 on review on the grounds that (i) the total floor area for the proposed use would exceed the maximum permissible limit of 230m² applicable to the subject building without a sprinkler system which was not acceptable to the Director of Fire Services (D of FS) from fire safety point of view, and that (ii) approval of the application would set an undesirable precedent for similar applications, thereby resulting in adverse fire safety impact on such industrial buildings not equipped with a sprinkler system.

7. **The Premises and its Surrounding Areas** (**Plans A-1, A-2 and A-2a** and Site Photos on **Plans A-3 and 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 1963 with 11 storeys and not equipped with a sprinkler system; and
- (b) current floor uses:

Floor	Main Uses
G/F	The Premises (currently in operation), canteen, real estate agency *, retail shops *, car repairing and printing workshops *, as well as warehouses
1/F to 10/F	Industrial-related offices/warehouses

* There is no record of planning permission granted for such use.

7.3 The surrounding areas have the following characteristics:

- (a) predominantly a residential area (with Un Chau Estate to the west and south, a recently completed composite residential/commercial development (i.e. the Vertex) to the east, and other private residential buildings to the north) mixed with a number of industrial buildings including Tai Shing Factory Building across Wing Lung Street and Ping Fai Industrial Building across Un Chau Street (**Plans A-1 and A-2**). Commercial uses are commonly found on G/F of these residential and industrial developments; and
- (b) easily accessible by various modes of public transport with MTR Cheung Sha Wan Station located at about 170m to the south of the subject IB (**Plan A-1**).

8. Planning Intention

The planning intention of the “R(E)” zone is primarily for phasing out of existing industrial uses through redevelopment (or conversion) for residential use on application to the Board. Whilst existing industrial uses will be tolerated, new industrial developments are not permitted in order to avoid perpetuation of industrial/residential interface problem.

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 (DLO/KW), LandsD:

- (a) the Premises falls within NKIL 4181, which is held under Conditions of Sale No. 6387 dated 11.1.1960 (collectively known as “the Conditions”) restricted for industrial purposes excluding any offensive, noxious, noisome or unhealthy trade, business or manufacture. In addition, a Temporary Waiver has been granted to the Premises for an initial term of 3 years certain commencing from 1.4.2003 and thereafter annually for the purpose of a cake shop, which was registered in the Land Registry vide Memorial No. UB9409614; and
- (b) the proposed ‘Shop and Services’ use at the Premises does not comply with the Conditions nor the Waiver Letter. 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 applicants’ formal application by his office. However, there is no guarantee that the approval will be given and he shall reserve his comment 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 the D of FS:

- (a) no in-principle objection to the application subject to:

- (i) imposition of an approval condition requiring provision of fire service installations (FSIs) and equipment to the satisfaction of D of FS; and
- (ii) means of escape are completely separated from the industrial portion of the building;
- (b) the building is not provided with a sprinkler system and hence the maximum permissible aggregate commercial floor area on G/F is 230m². The applied use should be counted up to the aggregate commercial floor area; and
- (c) detailed comments are at **Appendix II**.

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 II**.

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 is small with constrained layout, conveniently located and accessible by mass transport/public transport services, and the development scale is small; and
- (b) the applicants 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.

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);
- (e) Director of Food and Environmental Hygiene (DFEH); and
- (f) 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' use at the Premises on G/F of an existing IB within an area zoned "R(E)2" on the OZP. While the planning intention of the "R(E)" zone is primarily for phasing out of existing industrial uses through redevelopment (or conversion) for residential use, the applied 'Shop and Services' use is considered not incompatible with other uses of the same building which mainly comprise shop and services/workshops on G/F and industrial-related offices/warehouses on the upper floors. Commercial uses are also commonly found on G/F of the surrounding residential and industrial developments.
- 11.2 As confirmed by D of FS, the subject IB is not provided with a sprinkler system and subject to a maximum permissible limit of 230m² for aggregate commercial floor area on G/F. If the applied 'Shop and Services' use is approved, the aggregate commercial floor area approved by the Committee on G/F of the subject IB will remain at 11m², which is within the maximum permissible limit. 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.
- 11.3 The applied use is small in scale and is not anticipated to 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 The Premises is the subject of a previous planning application (No. A/K5/140) for a cake shop approved by the Committee of the Board in 1991 (**Plan A-1**). Approval of the subject application is consistent with the previous decision of the Committee.
- 11.5 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' use under application 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 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

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.
- 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 applicants.

14. Attachments

Appendix I	Application Form received on 5.12.2023
Appendix II	Advisory Clauses
Drawings A-1 to A-2	Layout Plans
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-2a	Existing Uses of the Adjoining Units on G/F of the Premises
Plans A-3 to A-4	Site Photos

**PLANNING DEPARTMENT
JANUARY 2024**