

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/ST/1000

<u>Applicant</u>	: Aikon Development Consultancy Limited
<u>Premises</u>	: Unit B1 (Portion), G/F, Unison Industrial Centre, 27-31 Au Pui Wan Street, Fo Tan, Sha Tin, New Territories
<u>Floor Area</u>	: 91 m ² (about)
<u>Lease</u>	: (a) STTL No. 67 (New Grant No. 11250) (b) restricted to industrial and/or godown purposes (excluding offensive trade)
<u>Plan</u>	: Approved Sha Tin Outline Zoning Plan (OZP) No. S/ST/34
<u>Zoning</u>	: “Industrial” (“I”)
<u>Application</u>	: Proposed Temporary Shop and Services for a Period of Five Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Shop and Services’ use. According to the Notes of the OZP, ‘Shop and Services (not elsewhere specified) (ground floor only, except in wholesale conversion of an existing building and Ancillary Showroom which may be permitted on any floor)’¹ is a Column 2 use in “I” zone requiring planning permission from the Town Planning Board (the Board).
- 1.2 The Premises, with a floor area of about 91m², is located on the ground floor of Unison Industrial Centre abutting Fo Tan Road. The premises is currently vacant.
- 1.3 In support of the application, the applicant submitted the application form with planning statement on 28.7.2021 (**Appendix I & Ia**) and further information on 7.9.2021 (**Appendix Ib**). The location plan and floor plan of the Premises submitted by the applicant are shown in **Drawings A-1 to A-2**.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the planning statement submitted by the applicant at **Appendix Ia**. They can be summarised as follows:

¹ ‘Shop and Services (Motor-vehicle Showroom on ground floor, Service Trades only)’ is always permitted in the “I” zone.

- (a) the proposed use is to cope with the market demand and the latest developments of Fo Tan;
- (b) the proposed use is compatible with the surrounding uses and approval of the application would not set an undesirable precedent for similar planning applications;
- (c) the subject building has sufficient parking spaces;
- (d) loading and unloading facilities to accommodate the operation of the proposed use; the proposed use would not bring adverse traffic impact to the surrounding area;
- (e) no adverse fire safety concern is anticipated in view of the direct shop frontage to the adjoining pedestrian walkway and the implementation of appropriate fire safety installations; and
- (f) approval of the application on a temporary basis would not jeopardize the long-term planning intention of “I” zone.

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

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

4. Town Planning Board Guidelines

The ‘Town Planning Board Guidelines for Use/Development within “Industrial” Zone’ (TPB PG-No. 25D), which was revised and promulgated in September 2007, is relevant to this application. For a proposed commercial use in an industrial building, relevant planning assessment criteria are summarized as follows:

- (a) it should be demonstrated that there is a genuine need for the proposed use under application and no suitable alternative accommodation can be found in the vicinity. The location and scale of the proposed use should be justified on operational grounds;
- (b) there should be an adequate provision of parking and loading/unloading facilities within the site in accordance with the Hong Kong Planning Standards and Guidelines and to the satisfaction of the Transport Department. The inclusion and operation of the proposed commercial use should not adversely affect the traffic conditions in the local road network; and
- (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 building with and without sprinkler systems should as a general principle not exceeding 460m² and 230m² respectively. The limits on

aggregate 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 building. These uses include bank, fast food counter (sited at street level without seating accommodation and licensed as food factory), electrical shop, local provisions store and showroom in connection with the main industrial use. Moreover, the 230m²/460m² criteria do not apply to cases involving conversion of the low zone of an existing industrial building for commercial uses if the commercial portion is completely separated from the industrial portion on the upper floors by a buffer floor of non-hazardous occupancy such as a car-parking floor. In all cases, separate means of escape should be available for the commercial portion.

5. Previous Application

The Premises is part of the subject of two previous applications (Nos. A/ST/515 and A/ST/794) (**Plan A-2 and Appendix II**) submitted by different applicants for 'Shop and Services' use. They were approved on a temporary basis for 3 years by the Rural and New Town Planning Committee on 14.4.2000 and 19.10.2012 respectively, mainly on the considerations that the proposed use was considered not incompatible with the industrial/industrial-related uses and the surrounding developments; there were similar applications for 'Shop and Services' use approved in Fo Tan District; the proposed development generally complied with TPG PG-No. 25D; and relevant departments had no adverse comment on the application.

6. Similar Applications (Plan A-2 and Appendix III)

- 6.1 The ground floor of Unison Industrial Centre, where commercial uses are found, abuts Fo Tan Road, Min Fong Street, and Au Pui Wan Street. On the ground floor of the subject building, there are four similar planning applications for commercial uses within the past 10 years, which were approved by the Committee from 2013 to 2017 on a temporary basis of three years. These planning permission are all revoked due to non-compliance with approval conditions.
- 6.2 There is no valid planning permission in the subject industrial building subject to the maximum permissible limit of 460m² for aggregate commercial floor area on the ground floor according to TPB PG-No. 25D.
- 6.3 Should the subject planning application be approved, the floor area of the Premises (i.e. 91m²) will be counted into the aggregate commercial floor area of the subject building, which is within the maximum permissible limit of 460m².

7. The Premises and its Surrounding Areas (Plans A-1 to A-4)

7.1 The Premises is:

- (a) located on the ground floor (G/F) of Unison Industrial Centre in Fo Tan industrial area; and
- (b) abutting a cycle track along Fo Tan Road leading to Fo Tan Station of 300m away.

7.2 The subject industrial building is:

- (a) 17 storeys in height bounded by Au Pui Wan Street, Min Fong Street and Fo Tan Road. Car parking spaces is provided on the first floor, while loading/unloading areas are provided on both the ground floor and first floor of the building with vehicular ingress/egress at Au Pui Wan Street and egress at Min Fong Street; and
- (b) currently occupied by the following uses on various floors:

Floor	Current Uses
G/F (Plan A-3)	Application premises , bicycle shops [@] , food delivery store [@] , diesel service centre, laundry shop [#] , forklift repair workshop, retail shop for shoes [#] , interior design company, godown, restaurant [#] , loading/unloading area as well as locked and vacant premises
1/F	Carpark and loading/unloading area
2/F to 16/F	Godowns, workshops, offices, locked and vacant premises

[#]There is no record of planning approval granted for such use

[@]The planning approval for such use has been expired

7.3 The surrounding areas have the following characteristics:

- (a) Fo Tan is an established industrial area with high-rise industrial buildings;
- (b) to the immediate east of the subject building is Yuk Wo Court zoned “Residential (Group A)5”. To the further east is an area zoned “Comprehensive Development Area (1)”, where an application no. A/ST/927 was approved by the Committee on 8.12.2017 for residential and commercial uses;
- (c) MTR Fo Tan Station located within walking distance is 300m from the subject industrial building; and
- (d) a centrally located commercial centre (Shatin Galleria) in the Fo Tan District is about 230m from the Premises. Shatin Galleria is the only site zoned “Commercial” (“C”) (**Plan A-1**) in the vicinity.

8. Planning Intention

The “I” zone of Fo Tan is intended primarily for general industrial uses to ensure an adequate supply of industrial floor space to meet demand from production-oriented industries. Information technology and telecommunications industries and office related to industrial use are also always permitted in this zone.

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/Shia Tin, Lands Department (DLO/ST, LandsD):

- (a) the Premises is situated on Sha Tin Town Lot No. 67 which is governed by New Grant No. 11250 (“the New Grant”). Under the New Grant, the lot shall not be used for any purpose other than industrial or godown purposes or both, excluding offensive trade; and
- (b) the proposal under the application to use the subject premises as ‘Shop and Service’ is not permitted under the New Grant. If the Board approves the present application, owner of the premises is required to apply for a waiver from LandsD to implement this proposal. However, there is no guarantee that the waiver application will be approved. Such application, if received, will be considered by LandsD acting in its capacity as the landlord at its sole discretion and any approval given will be subject to such terms and conditions including, inter alia, payment of waiver fee 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) he has no in-principle objection to the application provided that:
 - (i) fire service installations and equipment being provided to the satisfaction of Fire Services Department. Detailed fire service requirements will be formulated upon receipt of formal submission of general building plans; and
 - (ii) means of escape separated from the industrial portion is available for the subject unit;
- (b) the building is protected with a sprinkler system so that the maximum permissible aggregate commercial floor area on G/F is

460m² in accordance with TPB PG-No.25D. The proposed use should be counted up to the aggregate commercial floor area;

- (c) regarding matters related to fire resisting 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 Buildings Authority; and
- (d) 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” if the application is approved.

Traffic

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

- no in-principle objection to the application from traffic engineering point of view.

Building Matters

9.1.4 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW of BD):

- (a) he has no in-principle objection to the application subject to that the proposed use shall comply with the requirements under the Buildings Ordinance;
- (b) If the application results in reduction in the provisions of sanitary fitments in the building, such a reduction shall comply with Building (Standards of Sanitary Fitments, Plumbing, Drainage works and Latrines) Regulations;
- (c) adequate access facilities for persons with disability should be provided. Building (Planning) Regulation 72 and Design Manual: Barrier Free Access 2008 are relevant;
- (d) if subdivision of the unit / premises is involved, it should comply with the provisions of Buildings Ordinance/ Building (Minor Works) Regulations. The applicant should engage a registered building professional under the Buildings Ordinance to co-ordinate the building works, if any; and
- (e) the applicant is advised to engage an authorized person to co-ordinate the building works, if any.

District Officer's Comments

9.1.5 Comments of the District Officer (Sha Tin), Home Affairs Department (DO(ST), HAD):

- (a) no comment on the application from departmental point of view; and
- (b) his office has not received any comment from the locals on the application.

10. Public Comment Received During Statutory Publication Period (Appendix IV)

On 6.8.2021, the application was published for public inspection. During the statutory public inspection period, a total of 35 comments was received. All of them support the application as many similar applications in Fo Tan District have been approved by the Board; the application is temporary in nature and small in scale, which will not jeopardize the long-term planning intention of “I” zone; and no significant traffic, fire safety and environmental impacts are expected from the proposed use.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed shop and services at the Premises located on the ground floor of an existing industrial building zoned “I” on the OZP. While the planning intention of the “I” zone is to reserve land primarily for general industrial uses to ensure an adequate supply of industrial floor space to meet demand from production-oriented industries, commercial uses in industrial buildings within the “I” zone may be permitted on application to the Board based on individual merits and the planning assessment criteria set out in TPB PG-No. 25D.
- 11.2 The Premises is located on the ground floor of an existing industrial building with vehicular ingress/egress at Au Pui Wan Street and egress at Min Fong Street, and is abutting a cycle track along Fo Tan Road. The proposed use is small in scale and not incompatible with the industrial and industrial-related uses in the subject industrial building and the surrounding developments.
- 11.3 The subject industrial building is subject to a maximum permissible limit of 460m² for aggregate commercial floor area on the ground floor. Currently, there is no approved planning application subject to aggregate commercial floor area on the ground floor of the subject building. Should the subject application be approved, the floor area of the Premises will be included in the aggregate commercial floor area, which is still within the maximum permissible limit of 460m². D of FS has no in-principle objection to the application subject to the provision of fire safety measures to his satisfaction.
- 11.4 The proposed use generally complies with the relevant considerations set out in TPB PG-No. 25D including the fire safety and traffic aspects. Relevant Government departments including FSD, BD and TD have no objection to/ no adverse comments on the application.
- 11.5 A temporary approval of five years is considered suitable to avoid jeopardising the long term planning intention of industrial use for the Premises and to allow the Committee to monitor the supply and demand of industrial floor space in the area.

11.6 There is no adverse public comments received.

12. Planning Department's Views

12.1 Based on the assessment made in paragraph 11 above, the Planning Department has no objection to the application on a temporary basis for a period of five years.

12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of five years until 24.9.2026. The following approval conditions and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission and implementation of fire safety measures to the satisfaction of the Director of Fire Services or of the Board before operation of the use; and
- (b) if the above planning condition is not complied with before the operation of the use, 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 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, and the period of which the permission should be valid on a temporary basis.

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.

Attachments

Appendix I	Application form received on 28.7.2021
Appendix Ia	Planning statement received on 28.7.2021
Appendix Ib	Further information received on 7.9.2021
Appendix II	Previous applications
Appendix III	Similar applications
Appendix IV	Public Comments
Appendix V	Recommended advisory clauses
Drawing A-1	Location Plan
Drawing A-2	Floor Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Floor Plan
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**