

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/ST/1003

- Applicant** : D&G Motors Limited represented by Anders Surveyors Company Limited
- Premises** : Portion of Workshop F9 (Formerly 9) on LG/F, Wah Lok Industrial Centre (Phase II), 31-35 Shan Mei Street, Sha Tin, New Territories
- Floor Area** : 20.13m² (about)
- Lease** : (a) STTL No. 165 (New Grant No. 11667)
(b) restricted to industrial and/or godown purposes (excluding offensive trade)
(c) a Temporary Wavier for ‘Shop and Services (Real Estate Agency) purpose with a fixed term of 3 years and thereafter quarterly from 23.11.2018
- Plan** : Draft Sha Tin Outline Zoning Plan (OZP) No. S/ST/35 (currently in force)

Approved Sha Tin Outline Zoning Plan (OZP) No. S/ST/34 (at the time of submission)
- Zoning** : “Industrial” (“I”)
- Application** : Shop and Services

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). The applied use is currently used as a real estate agency without valid planning permission.
- 1.2 The Premises, with a floor area of about 20.13m², is located on the lower ground floor of Wah Lok Industrial Centre Phase 2 abutting Sui Wo Road in Fo Tan.

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

The site plan and floor plan of the Premises submitted by the applicant are shown in **Drawing A-1**.

- 1.3 The Premises is also the subject of a previous application No. A/ST/964 for 'Shop and Services (Real Estate Agency)' use submitted by the same applicant, which was approved with condition on a temporary basis for three years by the Rural and New Town Planning Committee (the Committee) on 16.11.2018.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 9.9.2021 (Appendix I)
 - (b) Supporting Planning Statement received on 9.9.2021 (Appendix Ia)
 - (c) FI received on 11.10.2021 to clarify the background information of the application^ (Appendix Ib)
 - (d) FI received on 16.12.2021 in response to comments from FSD^ (Appendix Ic)
 - (e) FI received on 21.3.2022 in response to comments from FSD^ (Appendix Id)
 - (f) FI received on 7.4.2022 in response to comments from FSD^ (Appendix Ie)
- ^ accepted and exempted from publication and recounting requirements*
- 1.5 The application was deferred by the Committee on 29.10.2021 and 28.1.2022 for two months at the requests of the applicant's representative. Since the last deferral, the applicant submitted FIs on 21.3.2022 and 7.4.2022 in response to comments from FSD. The application is re-scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the planning statement and FI submitted by the applicant at **Appendices Ia** and **Ib**, as summarized below:

- (a) there are similar applications approved in the vicinity, demonstrating a genuine need for retail floor space in the locality;
- (b) land use optimisation could be achieved by providing shop and services to the locality;
- (c) the application is in line with the Town Planning Board Guidelines TPB PG-No. 25D. The proposal will not generate any adverse traffic and environmental impacts on the surrounding areas; and
- (d) the application is the subject of a previous application for 'Shop and Services (Real Estate Agency)' use approved by the Board on 16.11.2018. Due to the social movement and COVID-19 pandemic, the applicant was unable to comply with the approval condition on the provision of FSI on time. Relevant FSI as required by FSD were subsequently completed in November 2020.

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

The applicant is the sole “current land owner”. 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. Relevant extract of the Guidelines is at **Appendix II**.

5. Previous Application (Plan A-2 and Appendix III)

The Premises is the subject of a previous application (No. A/ST/964) submitted by the same applicant for temporary ‘Shop and Services (Real Estate Agency)’ use approved on a temporary basis for 3 years by the Committee on 16.11.2018. The application was approved mainly on consideration that the applied use was small in scale; and generally complied with TPB PG-No. 25D. The application was subsequently revoked on 17.10.2020 due to non-compliance with approval conditions on the submission and implementation of the fire safety measures.

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

6.1 Wah Lok Industrial Centre is located on a sloping ground. The lower and upper ground floors of the building, where commercial uses are found about Shan Mei Street, Sui Wo Road and Ngau Wu Tok Street. On the upper ground floor, there is no similar application. On the lower ground floor, there are four similar applications for commercial uses approved by the Committee, three were approved in the past ten years but subsequently expired/revoked, and the remaining one was approved on a permanent basis in 2002.

6.2 There is one valid planning permission in the subject industrial building subject to the maximum permissible limit of 460m² for aggregate commercial floor area on the lower and upper ground floors according to TPB PG-No. 25D:

No.	Application No.	Application Premises	Applied Use	Floor Area (About) (m ²)	Date of Approval
<i>Lower Ground Floor</i>					
1	A/ST/558	F9B (part) & F9C (part)	Retail Shop (Selling of Metal and Hardware)	20	12.4.2002
Total				20m²	

6.3 Should the subject planning application be approved, the floor area of the Premises (i.e. 20.13m²) will be counted towards the aggregate commercial floor area of the subject building. As a result, the total aggregate commercial floor

area of the subject industrial building will be 40.13m², 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 lower ground floor (LG/F) of Wah Lok Industrial Centre in Fo Tan industrial area;
- (b) with direct access to Sui Wo Road; and
- (c) currently used as a real estate agency without a valid planning permission.

7.2 The subject industrial building is:

- (a) 24 storeys in height bounded by Shan Mei Street, Sui Wo Road and Ngau Wu Tok Street. Car parking and loading/unloading spaces are provided on the first floor and second floors with vehicular ingress on Shan Mei Street and egress on Ngau Wu Tok Street; and
- (b) currently occupied by the following uses on various floors:

Floor	Current Uses
LG/F (Plan A-3a)	Application premises , car repairing workshops, car service workshops, metal workshop, freight forwarding service centre, plumbing and electrical engineering workshop, motor-vehicle showroom and workshop, retail shop (selling of metal and hardware)*, retail shop (selling of industrial safety products) [#] , real estate agency [@] , money exchange [@] , storages, and locked premises
UG/F (Plan A-3b)	Car repairing workshops, car services workshops, electrical material godown, building material godowns, storages, office, and locked premises
1/F to 2/F	Carpark and loading/unloading areas
3/F to 22/F	Storages, workshops, canteens, offices, locked and vacant premises

* There is a valid planning approval granted for such use

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

[@] The planning approval for such uses have been expired/revoked

7.3 The surrounding areas have the following characteristics:

- (a) Fo Tan is an established industrial area with high-rise industrial buildings;
- (b) MTR Fo Tan station is located about 690m from the subject industrial building; and
- (c) a centrally located commercial centre (Shatin Galleria) in the Fo Tan District is about 160m 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 Bureaux/ Departments**

9.1 The following government bureaux/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. 165 which is governed by New Grant No. 11667 (“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;
- (b) a Temporary Waiver was granted by LandsD to allow the use of the subject premises with area of about 20.1m² for ‘Shop and Services (Real Estate Agency)’ purpose with a fixed term of 3 years and thereafter quarterly commencing from 23.11.2018. Thus, he has no adverse view on the subject application; and
- (c) if the Town Planning Board approves the subject s.16 application, the term of the above waiver may be revised or a new waiver application would be required unless that applicant ensures that the internal floor area of the subject application will not exceed 20.1m² (about).

Fire Safety

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

- (a) the plans and documents in relation to the FSI requirements submitted by the applicant on 16.12.2021, 21.3.2022 and 7.4.2022 (**Appendices Ic, Id and Ie**) have been examined and found satisfactory. The conditions on the submission and implementation of fire safety measures have been fulfilled satisfactorily;
- (b) he has no in-principle objection to the application provided that:
 - (i) detailed Fire Services requirements will be formulated upon receipt of formal submission of general building plans; and
 - (ii) means of escape completely separated from the industrial portion is available for the subject unit;

- (c) the building is protected with a sprinklers system so that the maximum permissible aggregate commercial floor area on G/F is 460m² in accordance with TPB PG-No. 25D. The applied use should be counted up to the aggregate commercial floor area; and
- (d) 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 administrated by the Building Authority.

Building Matters

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

- no in-principle objection to the application under the Buildings Ordinance (BO) subject to the following;
 - (a) the applied use shall comply with the requirements under the BO and allied regulations. For instance, the subject shop and services shall be separated from the adjoining workshops by fire barriers with Fire Resistance Rating of 120 minutes and the means of escape in case of emergency of the existing adjoining premises shall not be adversely affected;
 - (b) the subdivision of the unit / premises shall comply with the provisions of BO and allied regulations, in particular Building (Minor Works) Regulation in case of minor works to be carried out. The applicant should engage a prescribed building professionals under the BO to co-ordinate the minor works, if necessary, and prescribed registered contractors to carry out the minor works; and
 - (c) the applicant is also advised to engage an authorized person to co-ordinate the building works, if any.

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

- (a) Commissioner for Transport; and
- (b) District Officer/Shia Tin, Home Affairs Department.

10. Public Comment Received During Statutory Publication Period

On 17.9.2021, the application was published for public inspection. During the statutory public inspection period, no comment was received.

11. Planning Considerations and Assessments

- 11.1 The application is for shop and services use at the Premises located on the lower 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 lower ground floor of an existing industrial building with shop frontage at Sui Wo Road. The applied 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 lower and upper ground floors. Currently, the approved aggregate commercial floor area on the LG/F and UG/F of the subject building is 20m². Should the subject application be approved, the floor area of the Premises will be included in the aggregate commercial floor area, which will increase to 40.13m² and will not exceed the maximum permissible limit of 460m².
- 11.4 The previous application No. A/ST/964 submitted by the same applicant for temporary ‘Shop and Services (Real Estate Agency)’ use was revoked on 17.10.2020 due to non-compliance with approval conditions on the submission and implementation of fire safety measures. In this regard, relevant FSI documents have been submitted to support the application (**Appendices Ic to Ie**). According to D of FS, the FSI at the Premises is considered acceptable and the condition on the submission and implementation of FSI has been fulfilled satisfactorily. D of FS has no in-principle objection to the application. There has been no change in planning circumstances since the approval of the previous application.
- 11.5 The applied 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.
- 11.6 In order to avoid jeopardizing 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, a temporary approval of five years is recommended.
- 11.7 No public comment was received during the statutory public inspection period.

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 5 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 5 years until 20.5.2027.

12.3 The recommended advisory clauses are attached at **Appendix V**.

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, 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.

14. Attachments

Appendix I	Application form received on 9.9.2021
Appendix Ia	Planning statement received on 9.9.2021
Appendix Ib	Further information received on 11.10.2021
Appendix Ic	Further information received on 16.12.2021
Appendix Id	Further information received on 21.3.2022
Appendix Ie	Further information received on 7.4.2022
Appendix II	Relevant extract of Town Planning Board Guidelines No. TPB PG-No. 25D for use/development within “Industrial” Zone
Appendix III	Previous application
Appendix IV	Similar applications
Appendix V	Recommended advisory clauses
Drawing A-1	Site plan and floor plan
Plan A-1	Location plan
Plan A-2	Site plan
Plans A-3a and 3b	Floor plans
Plans A-4a and 4b	Site photos