

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/ST/1006

<u>Applicant</u>	: Ms. Evelyn Choi Ping LEE and Mr. Francis Fei Pang LEE represented by Mr. FUNG Tak Sheung Philip
<u>Premises</u>	Workshop 8, Level 1, Wah Yiu Industrial Centre, Nos. 30 – 32 Au Pui Wan Street, Sha Tin, New Territories
<u>Floor Area</u>	104.94m ² (about)
<u>Lease</u>	: (a) STTL No. 142 (New grant No. 11611) (b) to be expired on 30.6.2047 (c) restricted to industrial and/or godown purposes or both
<u>Plan</u>	: Draft Sha Tin Outline Zoning Plan (OZP) No. S/ST/35 (at the time of submission) Approved Sha Tin Outline Zoning Plan (OZP) No. S/ST/36 (currently in force)
<u>Zoning</u>	: “Industrial” (“I”)
<u>Application</u>	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).
- 1.2 The Premises, with a floor area of about 104.94m², is located on Level 1 of Wah Yiu Industrial Centre abutting Au Pui Wan Street. The Premises is currently operating as shops and services without valid planning permission.
- 1.3 The floor plan of the Premises submitted by the applicant is shown in **Drawing A-1**.

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

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application Form received on 7.6.2022 and 10.6.2022 (Appendix I)
- (b) Further information (FI) received on 29.9.2022 (Appendix Ia)
- (c) FI received on 28.10.2022 (Appendix Ib)

1.5 Upon request by the applicant's representative, the Committee agreed to defer a decision on the application for two months on 29.7.2022.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in part 10 of the Application Form at **Appendix I**. They can be summarized as follows:

- (a) shop and services are insufficient in Fo Tan; and
- (b) with the completion of residential developments in Fo Tan including 'The Arles' and Chun Yeung Estate, there is a strong demand for shops and services in the area.

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 extracts of the Guidelines are at **Appendix II**.

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

The Premises is the subject of two previous applications (Nos. A/ST/415 and A/ST/456) submitted by different applicants for 'Local Provisions Store' and 'Retail Shop (Selling Paint and Newspaper)' uses. They were approved by the Committee in 1993 and 1998. These planning permissions have subsequently lapsed as the applied uses have ceased operation.

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

6.1 Wah Yiu Industrial Centre is located on a sloping ground. The ground floors (i.e. Levels 1 and 2) of the building, where commercial floor spaces are found, abuts Au Pui Wan Street, Siu Wo Road and Kwei Tei Street respectively. There are five similar applications for commercial uses on Levels 1 and 2 of the subject building.

One of them was approved permanently in 2004, while the remaining four were approved on a temporary basis in the past 10 years.

- 6.2 The following applications in the subject industrial building are subject to a maximum permissible limit of 460m² for aggregate commercial floor area on the ground floors according to TPB PG-No. 25D:

No.	Application No.	Application Premises	Applied Use	Floor Area (About) (m ²)	Date of Consideration
<i>Level 1</i>					
1	A/ST/588	9B	Wholesale Centre (Stationery)	25	9.1.2004
2	A/ST/973	7C	Shop and Services (Retail Shop and Fast Food Shop)	13.26	20.9.2019
Total:				38.26m²	

- 6.3 Should the subject planning application be approved, the floor area of the Premises (i.e. 104.94m²) will be counted towards the aggregate commercial floor area of the subject building. The aggregate commercial floor area of the subject building will be 143.2m², 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 street level (Level 1) of Wah Yiu Industrial Centre in Fo Tan industrial area; and
- (b) with direct access to Au Pui Wan Street.

- 7.2 The subject industrial building is:

- (a) 18 storeys in height and bounded by Au Pui Wan Street, Sui Wo Road and Kwei Tei Street. Car parking and loading/unloading spaces are provided on Level L3 of the building with vehicular access via Kwei Tei Street; and
- (b) currently occupied by the following uses on various floors:

Floor	Current Uses
Level 1	Application premises , canteens, workshops (including glass and vehicle repair), fast food shops [^] , wholesale centre (stationery) ⁺ , retail & fast food shop ⁺ , locked and vacant premises
Level 2	Godowns, office, vehicle repair workshop, locked premises, switch rooms and power rooms
Level 3	Car park and loading/unloading areas
1/F to 15/F	Godowns, offices, workshop, locked and vacant premises

- [^] There are planning approvals granted for two fast food shops (one valid and one revoked). There is no record of planning approval for the remaining fast food shop.
- ⁺ There are valid planning approvals granted for such uses.

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 600m from the subject industrial building; and
- (c) a centrally located commercial centre (Shatin Galleria) is about 200m 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 bureaux/departments have been consulted and their views on the application are summarized as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Shan Tin, Lands Department (DLO/ST, LandsD):

- (a) the Premises is situated on Level 1 of Wah Yiu Industrial Centre erected on Shan Tin Town Lot No. 142 which is governed under New Grant No. 11611 (“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) if the Board approves the current application, owners of the Premises are required to apply for a waiver from LandsD to implement the 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 services installations and equipment being provided to the satisfaction of D of FS. 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;
- (b) the building is protected with a sprinklers system so that the maximum permissible aggregate commercial floor area on the ground floor(s) is 460m² in accordance with TPB PG-No. 25D. The applied 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 administrated by the Building Authority; and
- (d) the applicant’s attention is drawn 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):

- no in-principle objection to the application under the Buildings Ordinance (BO) subject to the following;
 - (a) the proposed 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) adequate access facilities for persons with disability should be provided. Building (Planning) Regulation 72 and Design Manual: Barrier Free Access 2008 are relevant;
 - (c) the subdivision of the unit / premises should comply with the provisions of Building Ordinance / Building (Minor Works)

Regulation. The applicant should engage a registered building professional under the Buildings Ordinance to co-ordinate the building works, if any; and

- (d) the applicant is advised to engage an authorized person to co-ordinate the building works, if any.

9.2 The following government department had no comment on the application:

- District Officer (Sha Tin), Home Affairs Department

10. Public Comments Received During Statutory Publication Period

On 14.6.2022, the application was published for public inspection. During the statutory publication period, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The application is for a shop and services at the Premises located on the ground floor (Level 1) 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 direct access to Au Pui Wan Street. 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. Similar applications for a range of mixed ‘Shop and Services’ uses including fast food shop and retail shop have been approved for other units on the ground floors of the subject industrial building (**Plan A-2** and **Appendix IV**).
- 11.3 The subject industrial building is subject to a maximum permissible limit of 460m² for aggregate commercial floor area on the ground floor(s). Currently, the approved aggregate commercial floor area on the ground floors (i.e. Levels 1 and 2) of the subject building is 38.26m². 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 143.2m² and is still within the maximum permissible limit of 460m². D of FS has no in-principle objection to the application.
- 11.4 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 Fire Services Department, BD and TD have no objection to/no adverse comments on the application.
- 11.5 A temporary approval of five years is recommended 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 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 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 25.11.2027. The following approval conditions and advisory clauses are suggested for Members' reference.

Approval Conditions

- (a) the submission and implementation of fire safety measures within **6** months from the date of the approval to the satisfaction of the Director of Fire Services or of the Board by 25.5.2023; 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 in **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.

14. Attachments

Appendix I	Application Form received on 7.6.2022 and 10.6.2022
Appendix Ia	FI received on 29.9.2022
Appendix Ib	FI received on 28.10.2022
Appendix II	Relevant Extract of TPB PG-No. 25D
Appendix III	Previous applications
Appendix IV	Similar applications
Appendix V	Advisory clauses

Drawing A-1	Floor plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3a to A-3b	Floor Plans
Plans A-4a to A-4b	Site photos

**PLANNING DEPARTMENT
NOVEMBER 2022**