

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/ST/1016

<u>Applicant</u>	: The Dairy Farm Company Limited represented by Centaline Surveyors Limited
<u>Premises</u>	: Workshop G2, LG/F, Valiant Industrial Centre, 2-12 Au Pui Wan Street, Fo Tan, Sha Tin, New Territories
<u>Floor Area</u>	: About 51.45m ²
<u>Lease</u>	: (a) STTL Nos. 62, 63 and 64 (New Grant Nos. 11288, 11289 and 11291) (b) to be expired on 30.6.2047 (c) restricted to industrial or godown purposes or both, excluding offensive trade
<u>Plan</u>	: Approved Sha Tin Outline Zoning Plan (OZP) No. S/ST/36
<u>Zoning</u>	: “Industrial” (“I”)
<u>Application</u>	: 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 temporary ‘Shop and Services’ use for a period of 5 years. 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 51.45m², is located on LG/F of Valiant Industrial Centre abutting Au Pui Wan Street. The Premises, in whole or in part, is the subject of five previous applications Nos. A/ST/695, A/ST/713, A/ST/846, A/ST/919 and A/ST/983 submitted by the same applicant for the same temporary use for a period of three years between 2010 and 2020. It is currently covered by a planning permission valid until 13.6.2023 for ‘Shop and Services’ use.

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

- 1.3 In support of the application, the applicant submitted the application form with attachments on 10.3.2023 (**Appendix I**) and Further Information (FI) on 3.4.2023 (**Appendix Ia**). The floor plan and fire services installation (FSI) layout plan of the Premises submitted by the applicant are shown in **Drawings A-1** and **A-2**.

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 in **Appendix I**. They can be summarized as follows:

- (a) demand for retail shops in the locality is high. Changing the subject premises would allow flexibility in the use of an existing industrial building and also provide employment opportunities;
- (b) the locality is predominantly occupied by industrial buildings. Most ground floor portion of the buildings in the locality has been used for general retail purpose. The current retail use is in line with the surrounding uses;
- (c) customers of the subject shop mainly come from nearby buildings and hence traffic impact would be minimal; and
- (d) the Premises has a direct access to Au Pui Wan Street and Wo Liu Hang Road. Sufficient means of escape have been provided. All fire safety measures of the previous planning approval have been complied with.

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 obtaining consent from the 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)

- 5.1 Part of the Premises is the subject of an application (No. A/ST/695) submitted by the same applicant for ‘Shop and Services’ use. It was approved by the Committee on 5.3.2010 on a temporary basis for three years. The planning permission was revoked on 5.9.2010 as approval condition (a) on submission of fire safety measures had not been complied with.

5.2 The Premises is also the subject of four applications (Nos. A/ST/713, A/ST/846, A/ST/919 and A/ST/983) submitted by the same applicant for the same temporary use. The applications were approved with conditions by the Committee between 2010 and 2020 on considerations that the proposed use was not incompatible with the industrial-related uses in the vicinity and generally in compliance with TPB PG-No. 25D. The last application No. A/ST/983 was approved with conditions by the Committee on a temporary basis for a period of 3 years up to 13.6.2023 and the approval condition on fire safety measures has been complied with.

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

6.1 Valiant Industrial Centre is located on a sloping ground. The lower ground floor and ground floor of the building, where commercial floor spaces are found, are abutting Au Pui Wan Street, Wo Liu Hang Road and Min Fong Street respectively. There are 15 similar planning applications for commercial uses on the lower ground and ground floors of Valiant Industrial Centre all approved by the Committee in the past ten years. The following applications are still valid and should be counted towards the maximum permissible limit of 460m² for aggregate commercial floor area on the lower ground and ground floors of an industrial building (with sprinkler system) according to TPB PG-No. 25D:

No.	Application No.	Application Premises	Applied Use	Floor Area (m ²) (About)	Date of Consideration
Uses applicable for the maximum permissible limit of 460 m ² for aggregate commercial floor area on the G/F of an industrial building (with sprinkler system)					
Lower Ground Floor					
1	A/ST/970	B1-C	Shop and Services (Money Exchange)	25.732	3.5.2019
2.	A/ST/983 (Previous application at the Premises)	G2	Shop and Services	51.45	15.5.2020
Total :				77.182m²	

6.2 According to the TPB PG-No. 25D, the limits on aggregate commercial floor area are applicable to the subject application. Should the subject planning application be approved, the total aggregate floor area will be 77.182m², which will not exceed 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 (G/F) of Valiant Industrial Centre in Fo Tan industrial area;
- (b) currently used as a convenience store; and

- (c) with direct access via Au Pui Wan Street and Wo Liu Hang Road.

7.2 The subject industrial building is:

- (a) 14-storey industrial building bounded by Au Pui Wan Street, Min Fong Street and Wo Liu Hang Road. Carparking spaces are provided on ground and lower ground floors of the building with vehicular access via Min Fong Street; and
- (b) currently occupied by the following uses on various floors:

Floor	Current Uses
LG/F (Plans A-3a and A-3b)	Application premises , photocopy shop, godowns, vehicle repair workshops, real estate agencies+, restaurants#, fast food shops*~, canteens, money exchange@, offices, locked and vacant premises
G/F (Plan A-3c)	Car park, workshop, real estate agency^, pet supplies store#, laundry, locked and vacant premises
1/F to 12/F	Offices, godowns, workshops, locked and vacant premises

There is no record of planning approval granted for such use.

* The planning approval for such use has expired for three fast food shops.

~ A valid planning permission is in effect (A/ST/987) for one fast food shop.

+ The planning approval for such use has expired for one real estate agency.

@ A valid planning permission is in effect (A/ST/970) for one money exchange.

^ The planning approval for such use has expired.

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 300m from the subject industrial building; and
- (c) a centrally located commercial centre (Shatin Galleria) in the Fo Tan District is about 320m 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 summarized as follows:

Land Administration

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

the Premises is situated on the LG/F Floor of Valiant Industrial Centre erected on Sha Tin Town Lot Nos. 62, 63 and 64 and are governed under New Grant Nos. 11288, 11289 and 11291 (“the New Grants”). Under the New Grants, the lots shall not be used for any purpose other than industrial or godown purposes or both, excluding offensive trade. A temporary waiver was granted by LandsD to the existing owner of the Premises to allow the use of Premises for ‘Shop and Services’ purpose. Thus, he has no objection to the application.

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) the existing FSI and equipment implemented at the Premises are maintained in efficient working order at all times; and
 - (ii) means of escape completely 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 the ground floor(s) is 460m² in accordance with TPB PG-No.25D. The proposed use should counted up to the aggregate commercial floor area; and
- (c) his advisory comments are at **Appendix V**.

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) no in-principle objection to the application under the Buildings Ordinance (BO); and
- (b) his detailed comments are at **Appendix V**.

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

- (a) Director of Food and Environmental Hygiene; and
- (b) District Officer/Shi Tin, Home Affairs Department.

10. Public Comment Received During Statutory Publication Period

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 temporary shop and services use for a period of 5 years 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 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 LG/F of an existing industrial building with direct access via Au Pui Wan Street and Wo Liu hang Road. The proposed use is 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 / lower ground floor. The limit is applicable for the use of the subject application. Should the subject application be approved, the floor area of about 51.45m² of the Premises will be included in the aggregate commercial floor area, which will not exceed the maximum permissible limit of 460m². D of FS has no in-principle objection to the application provided that the existing FSI and equipment implemented at the Premises are maintained in efficient working order at all times.
- 11.4 The use under application 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 The Premises, in whole or in part, is the subject of five previous applications (Nos. A/ST/695, A/ST/713, A/ST/846, A/ST/919 and A/ST/983) for ‘Shop and services’ use approved by the Committee between 2010 and 2020. There is no change in planning circumstances since the approval of the previous applications. The approval condition of the previous application No. A/ST/983 regarding the provision of FSI has been complied with.
- 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 5.5.2028. The following approval conditions and advisory clauses are suggested for Members' reference:

Approval Condition

The existing fire services installation implemented at the application premises should be maintained in efficient working order at all times.

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.

14. Attachments

Appendix I	Application Form received on 10.3.2023
Appendix Ia	FI received on 3.4.2023
Appendix II	Relevant Extract of TPB PG-No. 25D
Appendix III	Previous Applications
Appendix IV	Similar Applications
Appendix V	Recommended Advisory Clauses
Drawing A-1	Floor Plan
Drawing A-2	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3a and A-3c	Floor Plans

Plans A-4a and A-4b Site Photos

**PLANNING DEPARTMENT
MAY 2023**