

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/ST/1017

Applicant : Mr. CHAN Chi Wai

Premises : Workshop 6C, Level L1, Wah Yiu Industrial Centre,
30-32 Au Pui Wan Street, Fo Tan, Sha Tin, New Territories

Floor Area : About 8.4m²

Lease : (a) STTL No. 142 (New Grant No. 11611)
(b) to be expired on 30.6.2047
(c) restricted to industrial or godown purposes or both, excluding
offensive trades

Plan : Approved Sha Tin Outline Zoning Plan (OZP) No. S/ST/36

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).
- 1.2 The Premises, with a floor area of about 8.4m², is located on the ground floor (Level L1) of Wah Yiu Industrial Centre abutting Au Pui Wan Street. The Premises is currently operating as shop and services (vending machine) without valid planning permission.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 23.3.2023 (Appendix I)
- (b) Further Information (FI) received on 11.5.2023[^] (Appendix Ia)

[^] accepted and exempted from publication and recounting requirements

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

- 1.4 The floor and layout plans 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 the Application Form at **Appendix I** and the FI at **Appendix Ia**. They can be summarized as follows:

- the shop could provide convenient, affordable and healthy food options for workers in the Fo Tan area. The shop operating 24 hours every day could cater for the needs of workers with different working hours.

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 consents from the land owners. 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 The Premises is part of the subject of a previous application No. A/ST/212 for ‘Showroom (Industrial Pneumatic Machineries)’ use approved by the Rural and New Town Planning Committee (the Committee) in 1992. The planning permission granted has lapsed as the applied use has ceased operation.
- 5.2 The Premises is also the subject of Application No. A/ST/953 for ‘Shop and Services (Real Estate Agency)’ submitted by a different applicant. The application was approved with conditions by the Committee on 1.6.2018 on a temporary basis of three years mainly on consideration that the applied use was not incompatible with the industrial-related uses in the vicinity and generally complied with TPB PG-No. 25D.

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 L1 and L2) of the building, where commercial floor spaces are found, abut Au Pui Wan Street, Sui Wo Road and Kwei Tei Street. There are five similar applications for commercial uses on Levels 1 and 2 of the subject

building. Application No. A/ST/588 was approved permanently in 2004, while the remaining four (A/ST/932, A/ST/973, A/ST/986 and A/ST/1006) were approved with or without conditions on a temporary basis in the past 10 years. The following similar applications are still valid and should be counted towards the maximum permissible limit of 460m² for aggregate commercial floor area on the ground floor of an industrial building (with sprinkler system) according to TPB PG-No. 25D:

No.	Application No.	Application Premises	Applied Use	Floor Area (About)(m ²)	Date of Approval
Uses applicable for the maximum permissible limit of 460m ² aggregated commercial floor area on the G/F of an industrial building (with sprinkler system)					
Ground Floor (Level 1)					
1.	A/ST/588	Unit 9B	Wholesale Centre (Stationery)	25	9.1.2004
2.	A/ST/973	Unit 7C	Shop and Services (Retail Shop and Fast Food Shop)	13.26	20.9.2019 (valid until 20.9.2024)
3.	A/ST/1006	Unit 8	Shop and Services	104.94	25.11.2022 (valid until 25.11.2027)
Total:				143.2 m²	

- 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 151.6m², 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:

- located on street level (Level 1) of Wah Yiu Industrial Centre in the Fo Tan Industrial Area;
- with direct access to Au Pui Wan Street.

7.2 The subject industrial building is:

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

Floor	Current Uses
Level 1	Application premises , canteens, fast food shops [^] , wholesale centre (stationery) ⁺ , retail shop ⁺ , pharmacy ⁺ , retail & fast food shop ⁺ , workshops

Floor	Current Uses
	(including glass and vehicle repair), and locked premises
Level 2	Godowns, vehicle repair workshops, office, locked premises, switch rooms and power rooms
Level 3	Car park and loading/unloading areas
1 to 15/F	Offices, godowns, workshops, vacant and locked premises

+ There are valid planning approvals granted for such uses.

^ There are planning approvals granted for the two fast food shops (one valid and one 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 600m from the subject industrial building; and
- (c) a centrally located commercial centre (Shatin Galleria) in the Fo Tan district 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 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):

- (a) the Premises is situated on Level 1 of Wah Yiu Industrial Centre erected on Sha 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):

- (c) 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;
- (d) 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
- (e) 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) advisory comments are at **Appendix V**.

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

- 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 shop and services use at the Premises located on the ground floor of an existing industrial building zoned “T” on the OZP. While the planning intention of the “T” 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 “T” 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 have been approved on the ground floors of the subject industrial building.
- 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 143.2m². 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 151.6m² 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 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 is the subject of a previous application (No. A/ST/953) for ‘Shop and services (Real Estate Agency)’ use approved with conditions by the Committee in 2018 on a temporary basis of three years. There has been no change in planning circumstances since the approval of the previous application.
- 11.6 A temporary approval of five years is recommended 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.
- 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 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 19.5.2028. 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 19.11.2023; 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 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 23.3.2023
Appendix Ia	FI received on 11.5.2023
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-3b	Floor Plans
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2023**