

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/ST/1021**

<b><u>Applicant</u></b>	: Yingbo Food (HK) Limited represented by Excel Engineer Limited
<b><u>Premises</u></b>	: Portion of Unit 2 on G/F, Technology Park, No. 18 On Lai Street, Sha Tin, New Territories
<b><u>Floor Area</u></b>	: About 15.84m <sup>2</sup>
<b><u>Lease</u></b>	: (a) STTL No. 374 (New Grant No. 12435) (b) to be expired on 30.6.2047 (c) restricted to industrial and/or godown purposes or both excluding the storage of “dangerous goods” and offensive trade
<b><u>Plan</u></b>	: Draft Sha Tin Outline Zoning Plan (OZP) No. S/ST/37 (currently in force)(no change in zoning and development restrictions)  Approved Sha Tin OZP No. S/ST/36 (at the time of submission)
<b><u>Zoning</u></b>	: “Other Specified Uses” annotated “Business” (“OU(B)”)
<b><u>Application</u></b>	: Proposed Shop and Services (Retail Food Shop)

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for proposed ‘Shop and Services (Retail Food Shop)’ use. According to Schedule II (for industrial or industrial-office building) of the Notes of the OZP for the “OU(B)” zone, ‘Shop and Services (not elsewhere specified) (ground floor only)’ is a Column 2 use requiring planning permission from the Town Planning Board (the Board).
- 1.2 The Premises, with a floor area of about 15.84m<sup>2</sup>, is located on the ground floor of an existing industrial building, known as Technology Park (the Building) abutting On Lai Street. According to the applicant’s submission, the Premises involves retail services. The Premises is currently under renovation. The layout plan of the Premises submitted by the applicant is shown in **Drawing A-1**.
- 1.3 In support of the application, the applicant submitted the following documents:
  - (a) Application Form received on 7.8.2023 (Appendix I)
  - (b) Further Information (FI) received on 19.10.2023\* (Appendix Ia)

(c) FI received on 16.11.2023\*

(Appendix Ib)

*\*Remarks: accepted and exempted from publication and recounting requirements*

- 1.4 On 22.9.2023, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's request to defer making a decision on the application for two months.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendix I**, as summarized as follows:

- (a) The Premises sells food products manufactured by the adjoining licensed food factory. This arrangement would minimise shipping cost and time, therefore, customers will be able to purchase the fresh food products at a lower price; and
- (b) The application involves small scale change of land use only and will not induce negative impacts on the environment, water supply, drainage, traffic and the existing facilities of the Building.

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

The applicant is not the “current land owner” of the Premises 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. 31B) by notifying 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 Development within “OU(B)” Zone (TPB PG-No. 22D) promulgated in September 2007 is relevant to this application. Relevant extract of the Guidelines are at **Appendix II**.

## **5. Previous Application**

There is no previous application at the Premises.

## **6. Similar Application**

- 6.1 There are no valid similar applications on the ground floor of the Building. Should the Committee approve the current application, the total approved aggregate commercial floor area will be 15.84m<sup>2</sup>, which is within the maximum permissible limit of 460m<sup>2</sup> on the ground floor of an industrial or industrial-office (I-O) building with a sprinkler system.

- 6.2 There is one similar application for ‘Shop and Services’ use on the ground floor of industrial or I-O buildings within the “OU(B)” zone in Shek Mun Business Area. The application (No. A/ST/900) (**Plan A-2** and **Appendix III**) was approved with condition on consideration that the application was in line with the planning intention of “OU(B)” zone and D of FS had no objection to the application from fire safety point of view.

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

### **7.1 The Premises:**

- (a) is located on the ground floor of Technology Park in Shek Mun Business Area (**Plan A-4**);
- (b) has its own entrance fronting On Lai Street (**Plan A-3**); and
- (c) is fully separated from the workshop area in the Unit (**Drawing A-1**).

### **7.2 The subject building is:**

- (a) 22-storey in height bounded by On Kwan Street and On Lai Street with vehicular access on the ground floor via On Kwan Street. Loading/unloading and car parking spaces are provided on the ground floor and first floor of the Building; and
- (b) currently occupied by the following uses on various floors:

Floor	Current Uses
G/F	<b>The Premises</b> , shop and services (Takeaway Fast Food Shops <sup>#</sup> , Metal Hardware Shop <sup>#</sup> and Real Estate Agency <sup>#</sup> ), canteen, food factory with freezer storage, locked premises and car parking spaces
1/F	Carpark and loading/unloading areas
2/F - 25/F (omitted 4, 13, 14 & 24/F)	Workshops (including vehicle testing and service centre)/storage, offices, locked and vacant premises

# No record of planning approval granted

### **7.3 The surrounding areas have the following characteristics:**

- (a) Shek Mun is gradually transforming into a business area with a mixture of industrial-related and commercial buildings;
- (b) to its further west across On Muk Street is a subsidized housing development, Yu Tak Court and to its further southeast across On Ming Street is a public housing estate, Shek Mun Estate; and
- (c) MTR Shek Mun Station is located to the southeast about 150m from the Building.

## **8. Planning Intention**

The planning intention of the “OU(B)” zone is intended primarily for general business uses. A mix of information technology and telecommunications industries, non-polluting industrial, office and other commercial uses are always permitted in new “business” buildings. Less fire hazard-prone office use that would not involve direct provision of customer services or goods to the general public is always permitted in existing industrial or I-O buildings.

## **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 in Sha Tin Town Lot No. 374 governed by New Grant Nos. 12435 as varied or modified by a Modification Letter dated 24.9.1993 (“the New Grants”). The lot shall not be used for any purpose other than industrial or godown purposes or both excluding the storage of “dangerous goods” and offensive trade. No building or buildings shall be erected on the lot except a factory or factories or godown or godowns or both, ancillary offices and such canteen and other welfare facilities (but excluding residential quarters) for workmen employed on the lot as may in the opinion of the Director of Lands be necessary and such quarters as may be required for watchmen or caretakers who, in the opinion of the Commissioner for Labour are essential to the safety and security of the buildings;
- (b) no in-principle objection to the planning application. However, the proposed ‘Shop and Services (Retail Food Shop)’ use at the Premises is not permitted under the New Grant. If the Board approves the application, owner of the Premises is advised to apply for a waiver for the proposed use. Notwithstanding, there is no guarantee that the waiver application will be approved. The application will be considered by the LandsD acting in its capacity as the landlord at its sole discretion and any approval for the waiver given would be subject to such terms and conditions including, inter alia, payment of waiver fee and administrative fee as may be imposed by LandsD; and
- (c) the Premises was previously used for retail purpose in breach of the New Grant. Warning letter to the owner requesting him to rectify the breach was issued on 23.5.2023.

### **Fire Safety**

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

- (a) 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 separated from the industrial portion is available for the Premises; and
- (b) advisory comments are at **Appendix IV**.

### **Building Matters**

#### 9.1.3 Comments of the Chief Building Surveyor/New Territories East 2 & Railway, Buildings Department (CBS/NTE2&Rail of BD):

- (a) no in-principle objection to the application under the Buildings Ordinance (BO); and
- (b) advisory comments are at **Appendix IV**.

### **Others**

#### 9.1.4 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) no objection to the application;
- (b) no Food and Environmental Hygiene Department's facilities will be affected; and
- (c) advisory comments are at **Appendix IV**.

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

- (a) Commissioner for Transport (C for T);
- (b) Director of General of Trade and Industry (DG of TI); and
- (c) District Officer/Shu Tin, Home Affairs Department (DO(ST), HAD)

## **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 proposed 'Shop and Services (Retail Food Shop)' use at the Premises, which is currently under renovation. The planning intention of the "OU(B)" zone is primarily for general business use. It allows greater flexibility in the use of the existing industrial or I-O buildings, provided that the proposed use would not induce adverse fire safety and environmental impacts. The proposed 'Shop and Services (Retail Food Shop)' use at the Premises is considered generally in line with the planning intention.
- 11.2 The Premises is located on the ground floor of an existing industrial building with direct frontage onto On Lai Street. Shek Mun Business Area is being transformed into commercial use with a mixture of industrial-related and commercial buildings. The proposed 'Shop and Services (Retail Food Shop)' use involves a floor area of 15.84m<sup>2</sup> under application is considered small in scale and not incompatible with the commercial and industrial-related uses in the same building and the surrounding land uses.
- 11.3 The proposed use at the Premises complies with TPB PG-No. 22D in that it would not induce adverse fire safety, traffic and environmental impacts to the subject building and the adjacent areas. Relevant government departments consulted including D of FS, C for T and CBS/NTE2&Rail of BD have no objection to/no adverse comment on the application.
- 11.4 As advised by D of FS, the subject building is protected with a sprinkler system and subject to a maximum permissible limit of 460m<sup>2</sup> for aggregate commercial floor area on the ground floor in accordance with TPB PG-No. 22D. Currently, there is no valid approved application for commercial uses on the ground floor of the Building. Should the Committee approve the application, the aggregate commercial floor area on the ground floor of the subject building will be 15.84m<sup>2</sup>, which is within the maximum permissible limit as set out in TPB PG-No. 22D. D of FS has no in-principle objection to the application provided that approval condition on the submission and implementation of fire service installations and equipment to his satisfaction. Relevant approval condition is recommended in paragraph 12.2(a) below.
- 11.5 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.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 8.12.2025 and after the said date, the permission shall cease to have effect unless before the said date, the development permitted commences or the permission is renewed. The following approval conditions and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission and implementation of fire services installations and equipment before operation of the proposed use to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (b) if the above planning condition is not complied with before the operation of the proposed 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 IV**.

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 date when validity of the permission should expire.
- 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**

<b>Appendix I</b>	Application Form received on 7.8.2023
<b>Appendix Ia</b>	FI received on 19.10.2023
<b>Appendix Ib</b>	FI received on 16.11.2023
<b>Appendix II</b>	Relevant Extract of TPB PG-No. 22D
<b>Appendix III</b>	Details of similar application
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Floor Plan
<b>Plan A-4</b>	Site Photos