

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/ST/1024

<u>Applicant</u>	: All Land (Asia) Limited
<u>Premises</u>	: Portion of Factory Unit 4 on G/F, Hopeful Factory Centre, Nos. 9-15 Fo Tan Road & Nos. 10-16 Wo Shing Street, Fo Tan, Shatin, New Territories
<u>Floor Area</u>	About 9.2m ²
<u>Lease</u>	: (a) STTL No. 8 (New Grant No. 11083) (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 (at the time of submission) Draft Sha Tin OZP No. S/ST/37 (currently in force)(no change to the subject “I” zone and development restrictions)
<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. The Premises, with a floor area of about 9.2m², are located on the ground floor of an existing industrial building, known as Hopeful Factory Centre (the Building) abutting Au Pui Wan Street¹ (**Plan A-1**). 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)’² is a Column 2 use in the “I” zone requiring planning permission from the Town Planning Board (the Board).
- 1.2 Part of the Premises is the subject of two previous applications (No. A/ST/833 and A/ST/865) (**Plan A-2**) submitted by the same applicant for ‘Shop and Services (Real Estate Agency)’ use, which were approved with conditions on a

¹ Due to the re-alignment of Fo Tan Road, the Premises are currently abutting Au Pui Wan Street.

² ‘Shop and Services (Motor-vehicle Showroom on ground floor, Service Trades only)’ use is always permitted in the “I” zone.

temporary basis for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board in 2013 and 2015 respectively. The planning permissions were subsequently revoked (see paragraph 5 and **Appendix III** for details). The Premises are currently operating as a retail shop without valid planning permission.

1.3 According to the applicant's submission, the Premises are intended for retail services selling construction materials, spare parts for electrical appliances and metal parts. The location plan and layout plan of the Premises submitted by the applicant are shown in **Drawings A-1** and **A-2**.

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

- | | |
|--|------------------------|
| (a) Application Form received on 3.11.2023 | (Appendix I) |
| (b) Further Information (FI) received on 27.11.2023* | (Appendix Ia) |
| (c) FI received on 6.12.2023* | (Appendix Ib) |
| (d) FI received on 8.2.2024* | (Appendix Ic) |

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

1.5 On 22.12.2023, the Committee agreed to the applicant's request to defer making a decision on the application for two months.

2. Justifications from the Applicant

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

- (a) the retail shop at the Premises could serve local workers and offices in Fo Tan.
- (b) majority of the products are provided by suppliers in Fo Tan and would be stored in a unit within the same building. The Applicant owns two parking spaces in the same building for loading and unloading. No adverse traffic and environmental impacts are anticipated.

2.2 Under the current application, the applicant has submitted a fire services plan and a certificate of fire service installation (FSI) and equipment (**Appendix Ia**).

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 "I" Zone' (TPB PG-No. 25D), which were revised and promulgated in September 2007, are relevant to this application. Relevant extract of the Guidelines is at **Appendix II**.

5. Previous Applications (Plan A-2)

Part of the Premises is the subject of two previous applications (No. A/ST/833 and A/ST/865) submitted by the same applicant for 'Shop and Services (Real Estate Agency)' use with a smaller area of about 4.94m², which were approved with conditions by the Committee on 13.12.2013 and 13.3.2015 respectively on a temporary basis for a period of 3 years. The two applications were subsequently revoked due to non-compliance with approval conditions on fire safety measures/FSI. Details of the previous applications are at **Appendix III**.

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

There is one similar application (No. A/ST/904) for 'Shop and Services (Real Estate Agency)' use on the ground floor of the Building, which was approved by the Committee on a temporary basis for a period of 3 years from 14.10.2016 to 14.10.2019. As the application has lapsed, there is currently no valid planning permission on the ground floor of the Building. Should the Committee approve the current application, the total approved aggregate commercial floor area will be 9.2m², which is within the maximum permissible limit of 460m² on the ground floor of an industrial or industrial-office (I-O) building with sprinkler system in accordance with TPB PG No. 25D.

7. The Premises and Its Surrounding Areas (Plans A-1 to A-4)

7.1 The Premises:

- (a) are located on the ground floor of Hopeful Industrial Centre in Fo Tan industrial area (**Plan A-4**); and
- (b) has a direct access fronting Au Pui Wan Street (**Drawing A-2**).

7.2 The subject industrial building is:

- (a) 13 storeys in height bounded by Au Pui Wan Street and Wo Shing Street. Carparking spaces and loading dock are provided on the ground floor of the Building with access from Wo Shing Street; and
- (b) currently occupied by the following uses on various floors:

Floor	Current Uses
G/F (Plan A-3)	The Premises , shop and services (including real estate agency*, hardware and construction material shop*, car washing*), bicycle storage, locked premises and carpark
1/F-12/F	Offices, workshop (including vehicle testing and service centre), storage/warehouses, locked and vacant premises

* No record of planning permission granted for the uses

7.3 The surrounding areas have the following characteristics:

- (a) Fo Tan is an established industrial area with high-rise industrial buildings and some ‘Shop and Services’ uses found on the ground floor;
- (b) residential developments are found in the vicinity, namely Yuk Wo Court to its west and the Arles to its south;
- (c) a centrally located commercial centre (Shatin Galleria) is situated at about 400m to the further west from the Building (**Plan A-1**); and
- (d) Mass Transit Railway Fo Tan Station is located at about 150m to the east of the Building (**Plan A-1**).

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 are situated on Sha Tin Town Lot No. 8, and are governed by New Grant No. 11083 (“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. No building or buildings shall be erected on the lot except a factory or factories or a warehouse or warehouses or both, ancillary offices and such quarters for watchmen or caretakers as considered essential by the Commissioner for Labour;
- (b) the Premises for ‘Shop and Services’ purpose are not permitted under the New Grant. Under the established procedures for this case relating to ground floor of industrial building, the owner of the Premises is advised to apply to LandsD for a waiver for the use under planning application at this stage. If the planning application is approved by the Board, waiver application will then be processed by LandsD to allow the applied use. However, there is no guarantee that the waiver application will be approved. Such application, if received by LandsD, will be considered by LandsD acting in the 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 together with the remaining floor area of Factory Unit 4 comprising a total floor area of about 216m² are now being used for retail purposes in breach of the lease conditions. For the avoidance of doubt, LandsD will consider the waiver application for the Premises only, if approved by the Board and the applicant is still required to rectify the breach of the remaining floor area. In the event that the application is not approved by the Board, the waiver application will not be considered by LandsD and the applicant should rectify the breach of the whole floor of Factory Unit 4. Otherwise, LandsD will take appropriate lease enforcement action against the breach.

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 service 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 are 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 is 460m² in accordance with TPB PG-No. 25D. The applied use should be counted up to the aggregate commercial floor area; and
- (c) advisory comments are at **Appendix V**.

Building Matters

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

- (a) no objection to the application; and
- (b) advisory comments are at **Appendix V**.

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

- (a) Commissioner for Transport (C for T); and
- (b) District Officer/Shu Tin, Home Affairs Department (DO(ST), HAD).

10. Public Comment Received During Statutory Publication Period

On 10.11.2023, 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 to seek planning permission for 'Shop and Services' use 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 are located on the ground floor of the Building with a direct access fronting Au Pui Wan Street. The applied use with a floor area of 9.2m² is relatively small in scale and not incompatible with the industrial and industrial-related uses in the Building and the surrounding developments.
- 11.3 The applied use generally complies with the relevant considerations set out in TPB PG-No. 25D including fire safety and traffic aspects. Relevant government departments including D of FS, C for T and CBS/NTW, BD have no objection to/ no adverse comments on the application.
- 11.4 As advised by D of FS, the Building is protected with a sprinkler system and subject to a maximum permissible limit of 460m² for aggregate commercial floor area on the ground floor in accordance with TPB PG-No.25D. Currently, there is no valid planning permission 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 Building will be 9.2m², which is within the maximum permissible limit of 460m² as set out in TPB PG-No.25D.
- 11.5 Part of the Premises is the subject of two previous applications (No. A/ST/833 and A/ST/865) for 'Shop and Services (Real Estate Agency)' use submitted by the same applicant, which were subsequently revoked due to non-compliance with approval conditions on fire services measures/FSI. Under the current application, the applicant has submitted a fire services plan and a certificate of FSI and equipment (**Appendix Ia**). D of FS has no objection to the application subject to imposition of an approval condition on FSI and equipment as stipulated in paragraph 12.2(a). Moreover, the applicant would be advised that should he/she fail to comply with the approval condition again resulting in the

revocation of the planning permission, sympathetic consideration may not be given to any further application.

- 11.6 A temporary approval of 5 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.

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 5.4.2029. The following approval conditions and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission and implementation of fire service installations and equipment within 6 months from the date of the approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 5.10.2024; and
- (b) if the above planning condition (a) 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 3.11.2023
Appendix Ia	FI received on 27.11.2023
Appendix Ib	FI received on 6.12.2023
Appendix Ic	FI received on 8.2.2024
Appendix II	Relevant Extract of TPB PG-No. 25D
Appendix III	Previous Applications
Appendix IV	Similar Application
Appendix V	Recommended Advisory Clauses
Drawing A-1	Location Plan submitted by the applicant
Drawing A-2	Layout Plan of the Premises submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Floor Plan
Plan A-4	Site Photos

**PLANNING DEPARTMENT
APRIL 2024**