

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

**APPLICATION NO. A/ST/1026**

<b><u>Applicant</u></b>	: Delicious Heaven Limited
<b><u>Premises</u></b>	: Workshop B3, LG/F, Valiant Industrial Centre, 2-12 Au Pui Wan Street, Fo Tan, Sha Tin, New Territories
<b><u>Floor Area</u></b>	: About 117.8m <sup>2</sup>
<b><u>Lease</u></b>	: (a) STTLs No. 62, 63 and 64 (New Grant No. 11288, 11289 and 11291) (b) to be expired on 30.6.2047 (c) restricted to industrial or godown purposes or both, excluding offensive trades
<b><u>Plan</u></b>	: Draft Sha Tin Outline Zoning Plan (OZP) No. S/ST/37
<b><u>Zoning</u></b>	: “Industrial” (“I”)
<b><u>Application</u></b>	: Shop and Services (Fast Food Shop) with Ancillary Store Room

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Shop and Services (Fast food Shop) with Ancillary Store Room’. According to the Notes of the OZP, ‘Shop and Services (not elsewhere specified) (ground floor (G/F) only, except in wholesale conversion of an existing building and Ancillary Showroom which may be permitted on any floor)’<sup>1</sup> is a Column 2 use in “I” zone requiring planning permission from the Town Planning Board (the Board). The Premises is currently operating as a fast food shop without valid planning permission.
- 1.2 The Premises, with a floor area of about 117.8m<sup>2</sup>, is located on the lower ground floor (LG/F) of Valiant Industrial Centre (the Building) abutting Au Pui Wan Street (**Plan A-1**). According to the applicant, no seating accommodation will be provided in the fast food shop. The floor plan, fire services plan and layout plan of the Premises submitted by the applicant are shown in **Drawings A-1 to A-3** respectively.

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<sup>1</sup> ‘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 following documents:

- (a) Application Form received on 14.3.2024 (Appendix I)
- (b) Supplementary Information received on 18.3.2024 (Appendix Ia)

**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) due to the cessation of industrial operation at the Premises, the land owner has given consent to the applicant for operating a fast food shop; and
- (b) no seating accommodation will be provided in the fast food shop.

**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 obtaining consent from the land owner. Detailed information would be deposited at the meeting for Members’ inspection.

**4. Town Planning Board Guidelines**

‘Town Planning Board Guidelines for Use/Development within “Industrial” 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 and Appendix III)**

5.1 Part of the Premises is the subject of four previous applications for ‘Shop and Services’ uses submitted by different applicants. Applications No. A/ST/806 for ‘Shop and Service (Beauty Treatment and Foot Reflexology)’ use (with a smaller area of about 88.4m<sup>2</sup>) and No. A/ST/856 for Temporary Shop and Services (Fast Food Shop) (with a smaller area of about 61.5m<sup>2</sup>) were approved with conditions on 25.1.2013 and 26.9.2014 respectively by the Rural and New Town Planning Committee (the Committee) of the Board on a temporary basis on the 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. These two applications were subsequently revoked due to non-compliance with approval conditions on fire safety measures/ fire service installations (FSIs).

5.2 Applications No. A/ST/666 for ‘Shop and Services (Fast Food Shop)’ (with a smaller area of about 88.45m<sup>2</sup>) and No. A/ST/895 for ‘Temporary Shop and

Services (Fast Food Shop)'for a period of five years (with a smaller area of about 61.5m<sup>2</sup>) were approved by the Committee on 22.2.2008 and 19.6.2016 respectively on the 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. Both planning permissions have expired.

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

6.1 Valiant Industrial Centre is located on a sloping ground. The LG/F and G/F of the Building, where commercial uses are found, are abutting Au Pui Wan Street, Wo Liu Hang Road and Min Fong Street respectively. There are 13 similar planning applications for commercial uses on the LG/F and G/F of the Building approved by the Committee in the past ten years. 11 planning permissions have either expired or have been revoked due to non-compliance with approval conditions. Currently, there are two valid planning permissions (under Applications No. A/ST/987<sup>2</sup> and A/ST/1016) of which Application No. A/ST/1016 should be counted towards the maximum permissible limit of 460m<sup>2</sup> for aggregate commercial floor area on the lower ground and ground floors of the subject industrial building (with sprinkler system) according to TPB PG-No. 25D:

No.	Application No.	Application Premises	Applied Use	Floor Area (m <sup>2</sup> ) (About)	Date of Consideration
Uses applicable for the maximum permissible limit of 460m <sup>2</sup> for aggregate commercial floor area on the G/F of an industrial building (with sprinkler system)					
Lower Ground Floor					
1.	A/ST/1016	G2	Temporary Shop and Services for a period of 5 years	51.45	5.5.2023
<b>Total :</b>				<b>51.45m<sup>2</sup></b>	

6.2 According to TPB PG-No. 25D, the limits on aggregate commercial floor area do not apply to fast food counter which is sited at street level without seating accommodation and licensed as food factory. Hence, the limits on aggregate commercial floor area are not applicable to the current application.

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

7.1 The Premises is:

- (a) located on the LG/F of Valiant Industrial Centre in Fo Tan industrial area; and
- (b) with direct access to Au Pui Wan Street.

<sup>2</sup> the limits on aggregate commercial floor area do not apply to the application for fast food shop according to TPB PG-No. 25D.

7.2 The subject industrial building is:

- (a) a 14-storey industrial building bounded by Au Pui Wan Street, Min Fong Street and Wo Liu Hang Road. Carparking spaces are provided on the G/F 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	<b>Application premises</b> , shop and services (fast food shops*~, bakery#, real estate agencies**, money exchange*, convenience store~, copying and lamination shop#), offices (industrial and non-industrial# related), advertising production, canteens, warehouses/storage, plant rooms, and locked and vacant premises
G/F	Carpark, shop and services (real estate agency#, laundry#, pet supplies store#, electrical installation and ancillary wholesale and retails#), workshop, lobby, plant rooms, and vacant premises
1/F to 12/F	Offices, storage/warehouses, workshops and locked premises

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

\* The planning approval for such use has expired.

~ Covered by valid planning permission (Applications No. A/ST/987 for fast food shop and No. A/ST/1016 for Temporary Shop and Services for a Period of Five Years at different premises on the LG/F)

7.3 The surrounding areas have the following characteristics:

- (a) Fo Tan is an established industrial area with high-rise industrial buildings with some ‘Shop and Services’ uses found on the LG/F and G/F;
- (b) residential developments are found in the vicinity, namely Yuk Wo Court and the Arles; a centrally located commercial centre (Shatin Galleria) zoned “Commercial” is situated at about 300m from the Building (**Plan A-1**); and
- (c) easily accessible by public transport with Mass Transit Railway (MTR) Fo Tan Station located at about 350m 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 is situated in the Valiant Industrial Centre which is erected on STTLs No. 62, 63 and 64 (“the Lots”) governed by New Grant No. 11288, 11289 and 11291 respectively (“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. No building/ buildings shall be erected on the Lot except for a factory/ factories or a warehouse/ warehouses or both, ancillary offices and such canteen and other welfare facilities (excluding residential quarters) for workmen employed on the Lots as may in the opinion of the Director be necessary and such quarters for watchmen or caretakers as considered essential by the Commissioner for Labour; and
- (b) the application to use the Premises for the purpose of ‘Shop and Service (Fast Food Shop) with Ancillary Store Room’ is not permitted under New Grants. LandsD has received an application for a waiver for the uses under the planning application. If the planning application is approved by the Board, the waiver application will be processed by LandsD further to allow the applied use. However, there is no guarantee that the waiver application will be approved. Such application will be considered by 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.

### **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 subject proposal shall only be licensed and operated as 'food factory' or as 'factory canteen'; and
  - (ii) fire service installations are provided to the satisfactory of D of FS. Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans or referral from licensing authority.

- (b) please be informed that the subject proposal licensed and operated as a 'general restaurant' or 'light refreshment restaurant' will not be accepted;
- (c) the captioned industrial building is subject to a maximum permissible aggregate commercial floor area limit of 460m<sup>2</sup> since it is protected by a sprinkler system;
- (d) please be reminded that 'Local Provisions Store' or 'Fast Food Counter' would not be counted up to the aggregated commercial floor area according to Town Planning Board Guidelines (TPB PG-NO. 25D); 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 provided that the applied use would not cause adverse traffic impact and road safety issue in the vicinity.

### **Building Matters**

#### 9.1.4 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**.

## **10. Public Comment Received During Statutory Publication Period**

The application was published for public inspection. During the statutory publication period, one public comment indicating no comment on the application was received from a Sha Tin District Council Member (**Appendix VI**).

## **11. Planning Considerations and Assessments**

11.1 The application is to seek planning permission for 'Shop and Services (Fast Food Shop) with Ancillary Store Room' at the Premises located on LG/F 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 the LG/F of an existing industrial building with a direct access fronting Au Pui Wan Street. The applied use is considered not incompatible with the industrial and industrial-related uses in the Building and the surrounding developments. Similar applications for a range of mixed 'Shop and Services' uses have been approved for other units on the LG/F and G/F of the Building.
- 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 The Building is subject to a maximum permissible limit of 460m<sup>2</sup> for aggregate commercial floor area on the LG/F but the limit does not apply to fast food counter at street level without seating accommodation and licensed as food factory. D of FS has no objection in-principle to not counting the applied use into the permissible aggregate commercial floor area and the application subject to imposition of an approval condition on fire service installations and equipment as stipulated in paragraph 12.2(a).
- 11.5 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.

## **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 10.5.2029. 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 within 6 months from the date of the approval to the satisfaction of the Director of Fire Services or of the Board by 10.11.2024; 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**

<b>Appendix I</b>	Application Form received on 14.3.2024
<b>Appendix Ia</b>	Supplementary Information received on 18.3.2024
<b>Appendix II</b>	Relevant Extract of TPB PG-No. 25D
<b>Appendix III</b>	Previous Applications
<b>Appendix IV</b>	Similar Applications
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Appendix VI</b>	Public Comment
<b>Drawing A-1</b>	Floor Plan
<b>Drawing A-2</b>	Fire Services Plan
<b>Drawing A-3</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plans A-3a to A-3c</b>	Floor Plans
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MAY 2024**