

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/ST/1028

<u>Applicants</u>	: Wong Cheung Fai, Wong Cheung Yiu and Lee Wai Chun represented by Chan Kai Fai
<u>Premises</u>	: Workshop I1, G/F, Century Industrial Centre, 33-35 Au Pui Wan Street, Fo Tan, Sha Tin, New Territories
<u>Floor Area</u>	: About 38m ²
<u>Lease</u>	: (a) Sha Tin Town Lot (STTL) No. 68 (New Grant No. 11293) (b) restricted to industrial or godown purposes or both, excluding offensive trade
<u>Plan</u>	: Draft Sha Tin Outline Zoning Plan (OZP) No. S/ST/37 (at the time of submission) Approved Sha Tin OZP No. S/ST/38 (currently in force)
<u>Zoning</u>	: “Industrial” (“I”) (no change to the subject “I” zone on the current OZP)
<u>Application</u>	: Temporary Shop and Services (Fast Food Shop) for a Period of Five Years

1. The Proposal

- 1.1 The applicants seek planning permission for temporary shop and services (fast food shop) for a period of five years at the application premises (the Premises) falling within “I” zone on the OZP. 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)’¹ is a Column 2 use in the “I” zone requiring planning permission from the Town Planning Board (the Board).
- 1.2 The Premises, with a floor area of about 38m², is located on the G/F of Century Industrial Centre (the Building) abutting Au Pui Wan Street, Min Fong Street and Fo Tan Road (**Plan A-1**). The Premises is currently occupied by a fast food shop without valid planning permission.

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

1.3 According to the applicants, no seating accommodation will be provided at the Premises. The floor plan, layout plan and fire equipment plan of the Premises submitted by the applicants are shown in **Drawings A-1 to A-3** respectively.

1.4 In support of the application, the applicants submitted the following documents:

- (a) Application Form received on 29.4.2024 (Appendix I)
- (b) Supplementary Information enclosing a fire equipment plan received on 2.5.2024 (Appendix Ia)
- (c) Further Information (FI) received on 14.6.2024* (Appendix Ib)
- (d) FI received on 25.6.2024* (Appendix Ic)

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

1.5 On 21.6.2024, 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 Applicants

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

- (a) the applicants will obtain a food factory licence from Food and Environmental Hygiene Department (FEHD); and
- (b) no seating accommodation will be provided in the fast food shop.

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

The applicants are not the “current land owner” of the Premises but have 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 The Premises is the subject of five previous applications (No. A/ST/104, A/ST/191, A/ST/578, A/ST/913 and A/ST/966) submitted by different applicants.
- 5.2 Applications No. A/ST/104 for 'Shop and Services (Showroom and Retail Shop for Construction Materials)' use (with an area of about 152m²) and A/ST/578 for 'Fast Food Shop' use (with an area of about 49.24m²) were approved by the Committee on 20.2.1987 and 16.5.2003 respectively. Both planning permissions have lapsed as the applied uses ceased operation. Applications No. A/ST/913 for temporary shop and services (fast food shop) for a period of five years (with an area of about 36.5m²) and A/ST/966 for 'Shop and Services (Fast Food Shop)' (with an area of about 38m²) were approved with conditions on a temporary basis for a period of three years and five years respectively on 17.2.2017 and 4.1.2019 by the Committee on considerations that the applied use was not incompatible with the industrial-related uses in the vicinity and generally in compliance with TPB PG-No. 25D. The planning permissions were subsequently revoked due to non-compliance with approval conditions on the submission and implementation of fire safety measures.
- 5.3 Application No. A/ST/191 for 'Restaurant' use was rejected by the Committee on 24.1.1992 mainly on the grounds of insufficient justification for sacrificing the industrial ground floor space, fire safety issue and setting of undesirable precedent.

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

- 6.1 The ground floor of Century Industrial Centre, where commercial floor spaces are found, abuts Au Pui Wan Street, Min Fong Street and Fo Tan Road respectively. There have been four similar applications for commercial uses on the G/F of the Building approved by the Committee on a temporary basis in the past ten years and four applications approved on a permanent basis since 1988. Details of the applications are at **Appendix IV**. The following three applications approved on a permanent basis are still valid and should be counted towards the maximum permissible limit of 460m² for aggregate commercial floor area on the G/F 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 Approval
Uses applicable for the maximum permissible limit of 460m ² for aggregate commercial floor area on the G/F of an industrial building (with sprinkler system)					
1.	A/ST/133	Unit B	Metal Hardware Shop	95	8.7.1988
2.	A/ST/207	Unit D (Part)	Packaging Materials and Stationery Shop	58	24.7.1992

3.	A/ST/501	Unit H2	Retail Shop (Spare Parts for Electrical Appliances and Metal Parts)	7.48	8.10.1999
Total :				160.48m²	

- 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-4b)**

- 7.1 The Premises is:

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

- 7.2 The subject industrial building is:

- (a) 19 storeys in height bounded by Fo Tan Road, Min Fong Street and Au Pui Wan Street. Car parking and loading/unloading spaces are provided on the first floor of the building with vehicular access from Au Pui Wan Street; and
- (b) currently occupied by the following uses on various floors:

Floor	Current Uses
G/F	The Premises , power substation, management office, metal hardware shop [#] , local provisions store~, fast food shop~, canteen, real estate agencies ^{*@} , retail shop for spare parts for electrical appliances and metal parts, canteen, interior design company [#] , antiques shop [#] , packaging materials and stationery shop, electrical shop, godowns and locked premises
1/F	Carpark
2/F to 18/F	Storage/warehouse, offices, workshops, and locked premises

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

~ The planning approval for such use has expired for more than 10 years

*The planning approval for one real estate agency has expired for more than 10 years

@ There is no record of planning approval granted for one real estate agency

- 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 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 200m 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 “T” 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 STTL No. 68 (“the Lot”), which is governed by New Grant No. 11293 (“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/buildings shall be erected on the Lot except a factory/factories or a warehouse/warehouses 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 for watchman and caretakers who, in the opinion of the Commissioner for Labour are essential to the safety and security of the buildings; and
- (b) the application to use the Premises for the purpose of ‘Shop and Service’ and the existing food business are not permitted under the New Grant. Under the established procedure for this case relating to G/F of industrial building, the owner of the Premises is advised to apply to LandsD for a waiver for the uses under the planning application at this stage. If the planning application is approved by the Board, the 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, 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 subject to the fire service installations and equipment being provided to the satisfactory of D of FS. Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans;
- (b) the building is fully protected with sprinkler system so that the maximum permissible aggregated commercial floor area on G/F is 460m² in accordance with TPB PG-No. 25D. The applied use should not be counted up to the aggregated commercial floor area given that 'Fast Food Shop' without seating accommodation is generally in line with the nature of fast food counter; and
- (c) other 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) other advisory comments are at **Appendix V**.

Others

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

- (a) no adverse comment on the application; and
- (b) other advisory comments are at **Appendix V**.

9.2 The following government department has no specific comment on the application:

- (a) District Officer/Shia Tin, Home Affairs Department

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 an individual (**Appendix VI**).

11. Planning Considerations and Assessments

- 11.1 The application is to seek planning permission for temporary shop and services (fast food shop) for a period of five years at the Premises located on G/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 G/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 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 subject building is subject to a maximum permissible limit of 460m² for aggregate commercial floor area on the G/F in accordance with TPB PG-No. 25D 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 the application subject to provision of fire service installations and equipment to his satisfaction as stipulated in paragraph 12.2(a) below.
- 11.5 The Premises has been the subject of four previous applications for similar shop and services use approved by the Committee mainly on considerations as detailed in paragraph 5.2 above since 1987. There has been no change in planning circumstances since the approval of the previous applications.
- 11.6 One public comment indicates no comment on the application 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 on a temporary basis for a period of five years until 5.7.2029. 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 5.1.2025; 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 29.4.2024
Appendix Ia	Supplementary Information enclosing a fire equipment plan received on 2.5.2024
Appendix Ib	FI received on 14.6.2024
Appendix Ic	FI received on 25.6.2024
Appendix II	Relevant Extract of TPB PG-No. 25D
Appendix III	Previous Applications
Appendix IV	Similar Applications

Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comment
Drawing A-1	Floor Plan
Drawing A-2	Layout Plan
Drawing A-3	Fire Equipment Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Floor Plan
Plans A-4a to A-4b	Site Photos

PLANNING DEPARTMENT
JULY 2024