

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM/561

<u>Applicant</u>	:	Yat Fung Tile Company
<u>Premises</u>	:	Workshop Units 17A and 17 (Portion), G/F, Hang Wai Industrial Centre, 6 Kin Tai Street, Tuen Mun, New Territories
<u>Floor Area</u>	:	About 65m ²
<u>Lease</u>	:	Tuen Mun Town Lot (TMTL) No. 114 held under New Grant No. 2232 - Restricted to industrial and/or godown purposes (excluding offensive trade)
<u>Plan</u>	:	Approved Tuen Mun Outline Zoning Plan (OZP) No. S/TM/35
<u>Zoning</u>	:	“Other Specified Uses” annotated “Business” (“OU(B)”) <i>[Restricted to a maximum plot ratio (PR) of 9.5 (including not more than a plot ratio of 1.0 for ‘Shop and Services’ and ‘Wholesale Trade’) and a maximum building height (BH) of 100mPD, or the PR/BH of the existing building, whichever is the greater]</i>
<u>Application</u>	:	Shop and Services and Wholesale Trade with Ancillary Warehouse

1. The Proposal

- 1.1. The applicant seeks planning permission to use the application premises (the Premises) for ‘Shop and Services’ and ‘Wholesale Trade’ with ancillary warehouse uses. The Premises is located on the ground floor of an existing building known as Hang Wai Industrial Centre (the subject building), which falls within an area zoned “OU(B)” on the approved Tuen Mun OZP No. S/TM/35 (**Plans A-1 and A-2**). According to Schedule II of the Notes for the “OU(B)” zone applicable to industrial or industrial-office (I-O) building, ‘Shop and Services (not elsewhere specified) (ground floor only except Ancillary Showrooms which may be permitted on any floor)’ and ‘Wholesale Trade’ uses require planning permission from the Town Planning Board (the Board). The Premises is being used for the applied use without valid planning permission.
- 1.2. The Premises (in whole or in part) is the subject of four previous applications. The last application (No. A/TM/431) for renewal of planning approval for temporary “Shop and Services (Retail Shop)” use for a period of 3 years was approved with conditions by the Rural and New Town Planning Committee (the

Committee) of the Board on 30.3.2012. The approval condition in relation to the submission and implementation of fire service installations was complied with. The planning approval lapsed on 31.3.2015.

- 1.3. The Premises occupies Unit 17A and portion of Unit 17 on the ground floor of the subject building with a total area of about 65m² for a retail shop and wholesale of ceramic tiles. As shown on the floor plan on **Plan A-2**, the Premises has direct frontage at Kin On Street. The layout plan submitted by the applicant is attached in **Drawing A-1**.
- 1.4. In support of the application, the applicant has submitted the following documents:
 - (a) Application form with plans received on 25.3.2021 (**Appendix I**)
 - (b) Further Information (FI) received on 22.6.2021 providing responses to comments of District Lands Officer/Tuen Mun (DLO/TM), Commissioner for Transport (C for T) and Director of Fire Services (D of FS) (**Appendix Ia**)
 - (c) FI received on 29.6.2021 providing responses to comments of DLO/TM and D of FS (**Appendix Ib**)
 - (d) FI received on 15.7.2021 providing responses to comments of DLO/TM (**Appendix Ic**)
 - (e) FI received on 29.7.2021 providing responses to comments of DLO/TM (**Appendix Id**)
[(b), (c), (d) and (e) above exempted from publication and recounting requirements]
- 1.5. On 14.5.2021, the Committee agreed to defer making a decision on the application for two months as requested by the applicant. With the FI received on 22.6.2021, the application is scheduled for consideration by the Committee at this meeting.

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**. They can be summarised as follows:

- (a) Currently, there is no other retail shop selling tiles in the area. The proposed shop can serve the local residents and renovation workers in the area.
- (b) The Committee previously approved the Premises for retail shop use in 2012. The current shop for retail and wholesale of tiles has been operating for 13 years and welcomed by the residents in the area. The applicant intends to continue operating the shop to serve the residents in the area.

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 consent of the 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 Development within “OU(B)” Zone (TPB PG-No. 22D) is relevant in the following aspects:

- (a) the “OU(B)” zone has been introduced to allow maximum flexibility in the use of existing industrial and I-O buildings as well as in the development of new buildings for both commercial and clean industrial uses. The planning intention of the “OU(B)” zone is primarily for general employment uses;
- (b) whilst it is the intention to provide greater flexibility in the use of the existing industrial or I-O buildings before such buildings are redeveloped, it is necessary to ensure that the fire safety and environmental concerns are properly addressed. In view of the possible presence of existing polluting and hazardous industrial uses, it is necessary to ensure compatibility of the uses within the same building until the whole building is modified/converted to accommodate the new non-polluting and less fire hazard-prone uses;
- (c) the Fire Services Department should be satisfied on the risks likely to arise or increase from the proposed commercial use under application. Owing to fire safety concern, the aggregate commercial floor areas on the ground floor of an existing industrial/I-O building with and without sprinkler systems should not exceed 460m² and 230m² respectively. The above limits on commercial floor area do not apply to uses which are ancillary to or for the purposes of supporting the industrial activities/I-O and the routine activities of the workers in the industrial building. These uses include bank, fast food counter, electrical shop, local provisions store and showroom in connection with the main industrial use. Separate means of escape should be available for the commercial portion; and
- (d) for all new development, redevelopment, conversion and material change of use, adequate parking and loading/unloading spaces should be provided in accordance with the requirements of the Hong Kong Planning Standards and Guidelines (HKPSG), and all other statutory or non-statutory requirements of relevant Government departments must also be met.

5. Previous Applications

- 5.1. Part or the whole of the Premises is the subject of four previous applications (No. A/TM/362, 375, 382 and 431) for shop and services (retail shop) use submitted by the same applicant (**Plan A-2a**). Three applications (No. A/TM/362, 375 and 382) were considered by the Committee when the Site of the subject building was

zoned “I” on the OZP. In 2011, the concerned site was rezoned from “Industrial” (“I”) to “OU(B)”. Application No. A/TM/431 was considered by the Committee under the “OU(B)” zone.

- 5.2. All four applications were approved with conditions for a period of 3 years by the Committee on 28.9.2007, 19.9.2008, 17.4.2009 and 30.3.2012 respectively mainly on the considerations that the applied use was not incompatible with industrial/ industrial-related uses in the surroundings, complied with the relevant Board’s guidelines for commercial uses in industrial building within “I” or “OU(B)” zone and has no adverse traffic, environmental and fire safety impacts. The latest planning permission (No. A/TM/431) lapsed on 31.3.2015. Details of the previous applications are at **Appendix II**.

6. **Similar Applications**

- 6.1. The Committee/Board has considered 38 similar applications for shop and services/wholesale trade uses including retail shop, local provision store, real estate agency, fast food shop and convenience store at the ground floor units of the subject building. Amongst them, 31 applications were considered when the subject building was within an area zoned “I” on the Tuen Mun OZP and the remaining seven were considered when the subject building was within an area zoned “OU(B)”.
- 6.2. Amongst the 38 applications, 29 applications were approved by the Committee, and nine were rejected by the Committee or the Board. Among the seven applications which were considered under the “OU(B)” zone, two applications were approved by the Committee and five were rejected by the Committee or the Board mainly on ground of fire safety. Details of these similar applications are at **Appendix III**.
- 6.3. Amongst the 29 approved applications, only the following applications are still valid and should be counted towards the maximum permissible limit of 460m² for aggregate commercial floor area in the ground floor of the subject industrial building with sprinkler system according to TPB PG-No. 22D:

Application No.	Application Premises (G/F)	Proposed Uses/Development	Floor Area (about) (m ²)	Date of Approval
A/TM/78 ^[1]	13-13A	Retailing of Vehicle Spare Parts	33	27.1.1989
A/TM/79 ^[1]	52	Wholesaling and retailing of packaging materials and stationery	32	27.1.1989
A/TM/81 ^[1]	121	Wholesaling and retailing of packaging materials and stationery	28	27.1.1989
A/TM/146 ^[1]	1B	Retailing of packaging materials and stationery	38	19.6.1992
A/TM/155 ^[1]	3 (portion)	Retailing of plastic bags and stationery	12	23.10.1992

Application No.	Application Premises (G/F)	Proposed Uses/Development	Floor Area (about) (m ²)	Date of Approval
A/TM/559	1A	Shop and Services	33.67	30.4.2021
Total Approved Floor Area: 176.67m²^[2]				

^[1] These applications were approved when the subject building was still under “I” zone on the OZP.

^[2] The total approved floor area of 176.67m² has excluded the floor areas within the overlapping premises and cases of which planning permission have lapsed or been revoked.

- 6.4. According to TPB PG-No. 22D, the limit on aggregated commercial floor area is applicable to the applied use. If the application is approved, the aggregate commercial floor area will be 241.67m², which is within the maximum permissible limit of 460m² for the subject building with a sprinkler system.

7. **The Premises and its Surrounding Areas (Plans A-1 to A-3 and photos on Plans A-4a to A-4b)**

7.1. The Premises is:

- (a) situated on the ground floor of an existing 20-storey industrial building known as Hang Wai Industrial Centre;
- (b) currently used as a shop for retail and wholesale of ceramic tiles without a valid planning permission; and
- (c) directly accessible from Kin On Street.

7.2. Based on site inspection conducted on 24.6.2021, the existing main uses of the subject building by floors are summarised below :

Floor	Main Uses
G/F	The Premises , eating places ^[1] , canteen, storage, shops (real estate agency, logistics company, printing company, safety equipment retailing etc.), offices and workshops
1/F	Shops ^[1] , workshops and storage
2/F	Carpark
3/F to 19/F	Offices (for trading company, printing company, logistics company, computer company and design company), workshops (for metal, food factory etc.) and storage

^[1] No record of planning approval granted for these eating places and shops.

7.3. The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) the subject building is located at the southern part of Tuen Mun Industrial Area 9 which is predominately occupied by industrial buildings;
- (b) to its west and south are industrial buildings and another industrial area (Tuen Mun Industrial Area 12) respectively;

- (c) to its north and northeast is Kowloon Motor Bus (KMB) Overhaul Centre and Bus Depot; to its northwest is a commercial building, and to its east are fire station and ambulance depot; and
- (d) the West Rail Tuen Mun Station is situated about 400m to its east.

8. Planning Intention

The planning intention of the “OU(B)” zone is 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 industrial-office buildings.

9. Comments from Relevant Government Departments

- 9.1. The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

9.1.1. Comments of the DLO/TM, Lands Department:

- (a) The Premises are located at the ground floor of Hang Wai Industrial Building which is erected on Tuen Mun Town Lot No. 114 (‘the Lot’) and is held under New Grant No.2232 (‘the New Grant’). The Lot is subject to the following salient lease conditions:
 - (i) User: Industrial and/or godown purposes (excluding any offensive trade);
 - (ii) Type of Building: A factory or factories and/or a warehouse or warehouses, ancillary offices, and watchmen’s or caretakers’ quarters; and
 - (iii) Site coverage and plot ratio: Maximum site coverage of 80% and maximum plot ratio of 9.5 for building height over 100 ft. but not exceeding 120 ft.
- (b) The Lot is also subject to a waiver for the lifetime of the existing building erected on the Lot for the purpose of a canteen.
- (c) The proposed ‘Shop and Services’ and ‘Wholesale Trade with Ancillary Warehouse’ uses at the Premises do not comply with the lease conditions. If planning approval is given by the Board, the applicant will need to apply to LandsD for a temporary waiver for the proposal. The proposal will only be considered upon receipt of formal application from the registered owner. There is no guarantee that the application, if received by LandsD, will be approved and he reserves his comments on such. The application will be considered

by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the application is approved, it would be subject to such terms and conditions as the Government shall deem fit to do so, including, amongst others, charging of waiver fee and administrative fee.

- (d) Notwithstanding the above, in the event that any breach of the lease conditions or any change of use of the Premises without any prior approval from LandsD is detected, the Government reserves the right to take any enforcement action as may be considered appropriate.

Fire Safety

9.1.2 Comments of the D of FS:

He has no objection in principle to the application subject to the following:

- (a) fire service installations and equipment being provided to the satisfaction of his department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans;
- (b) the means of escape of the Premises is totally separated from the industrial portion of the subject building;
- (c) the building is protected with a sprinkler system so that the maximum permissible aggregated commercial floor area on G/F is 460m² in accordance with TPB PG-No. 22D. The applied use should be counted up to the aggregated commercial floor area;
- (d) regarding the matters related to fire resisting construction of the Premises, the applicant is reminded to comply with the 'Code of Practice for Fire Safety in Buildings' which is administered by the Building Authority; and
- (e) applicant's attention should be drawn to the 'Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises'.

Traffic

9.1.3 Comments of the C for T:

He has no comment on the application from traffic engineering point of view provided that the proposed use will not generate/attract additional trips and will not generate parking and loading/unloading demand.

Environment

9.1.4 Comments of the Director of Environmental Protection (DEP):

He has no objection on the application from the environmental planning perspective as the Premises is located within an industrial building and in small scale, adverse environmental impact associated with the use is not anticipated.

Building Matters

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

- (a) He has no in-principle objection under the Buildings Ordinance (BO) to the proposed uses within the Premises provided that adequate fire protection/separation between uses is installed.
- (b) Before any new building works are to be carried out at the Premises, prior approval and consent from BD should be obtained, otherwise they are Unauthorised Building Works. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO; and
- (c) Detailed comments under the BO will be provided at building plan submission stage.

Others

9.1.6 Comments of the Director-General of Trade and Industry (DG of TI):

He has no comment on the application given that the planning intention of the “OU(B)” zone is primarily for general business uses.

District Officer's Comments

9.1.7 Comments of the District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD):

She had distributed consultation letters to the locals concerned and understood that they would provide their comments (if any) to the Board direct.

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

- (a) Chief Highway Engineer/New Territories West, Highways Department;
- (b) Director of Electrical and Mechanical Services;
- (c) Commissioner of Police;
- (d) Chief Engineer/Construction, Water Supplies Department; and
- (e) Chief Engineer/Mainland North, Drainage Services Department.

10 Public Comments Received During Statutory Publication Period

On 9.4.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from individuals. One indicated support to the application, while another raised objection to the application on the grounds of adverse traffic and environmental impacts, and fire safety concerns (**Appendices IV-1 and IV-2**).

11 Planning Considerations and Assessments

- 11.1 The application is for shop and services and wholesale trade with ancillary warehouse use at the Premises within an existing industrial building which falls within an area zoned “OU(B)” on the OZP. The planning intention of “OU(B)” zone is primarily for general business uses. It allows greater flexibility in the use of the existing industrial or I-O buildings, provided that the proposed uses would not induce adverse fire safety and environmental impacts. The applied use is considered generally in line with the planning intention of the “OU(B)” zone.
- 11.2 The applied use on part of the ground floor of an existing industrial building is considered not incompatible with other uses within the same building which mainly comprises shop and services, canteen, and workshops on the ground floor and industrial-related offices, warehouses and workshops on the upper floors, and the surrounding industrial developments.
- 11.3 The applied use involves a floor area of about 65m² and is located on the ground floor of an existing building with direct frontage onto Kin On Street (**Plan A-2**). In view of the nature of operation and small scale of the applied use, the application generally complies with TPB PG-No. 22D in that the applied use would not induce adverse fire safety, traffic and environmental impacts on other uses within the subject building and the adjacent areas. Relevant Government departments consulted including D of FS, CBS/NTW of BD, C for T and DEP have no objection to/no adverse comment on the application.
- 11.4 As confirmed by D of FS, the subject building is protected by 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. 22D. If the application is approved, the aggregated commercial floor area on the ground floor of the subject building will be 241.67m², which is within the maximum permissible limit of 460m². In this regard, D of FS has no objection in principle to the application subject to the provision of fire service installations and equipment to his satisfaction.
- 11.5 The same Premises is the subject of four previously approved applications for shop and services and there are 29 similar approved applications for shop and services at other ground floor units of the subject building, of which two were approved when the site was zoned “OU(B)”. The approval of the current application is in line with the Committee’s previous decisions.
- 11.6 Two public comments with one supporting and another objecting to the application were received during the statutory public inspection period as

mentioned in paragraph 10. The planning considerations and assessments in the above paragraphs are relevant.

12 Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, no time clause on the commencement is proposed as the shop and services and wholesale trade with ancillary warehouse use under application is already in operation at the Premises. 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 proposal for the application premises within 6 months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.2.2022; 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 to 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.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for the rejection should be given to the applicant.

14 Attachments

Appendix I
Appendix Ia
Appendix Ib

Application form with attachment received on 25.3.2021
FI received on 22.6.2021
FI received on 29.6.2021

Appendix Ic	FI received on 15.7.2021
Appendix Id	FI received on 29.7.2021
Appendix II	Details of previous applications
Appendix III	Details of similar applications
Appendices IV-1 and IV-2	Public comments
Appendix V	Recommended advisory clauses
Drawing A-1	Layout Plan submitted by the Applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-2a	Site Plan showing the previous applications and the land uses of the adjoining units
Plan A-3	Aerial photo
Plans A-4a to A-4b	Site photos

PLANNING DEPARTMENT
AUGUST 2021