

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K5/827

- Applicant** : Master Max Corporation Limited represented by Grandmax Surveyors Limited
- Premises** : Unit 3A, G/F, Cheung Lung Industrial Building, 10 Cheung Yee Street, Cheung Sha Wan, Kowloon
- Floor Area of Premises** : About 145m²
- Lease** : New Kowloon Inland Lot (NKIL) No. 5563

Restricted for industrial or godown purposes or both excluding offensive trade
- Plan** : Approved Cheung Sha Wan Outline Zoning Plan (OZP) No. S/K5/37
- Zoning** : “Other Specified Uses” annotated “Business (4)” (“OU(B)4”)

[Restricted to a maximum plot ratio (PR) of 12 and a maximum building height (BH) of 120mPD, or the PR/BH of the existing building, whichever is the greater. A minimum setback of 5m from the lot boundary abutting Cheung Yee Street shall be provided.]
- Application** : Proposed Shop and Services (Fast Food Counter)

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for proposed ‘Shop and Services (Fast Food Counter)’. The Premises occupies Unit 3A on the G/F of an existing industrial building, namely Cheung Lung Industrial Building, which falls within an area zoned “OU(B)4” on the approved Cheung Sha Wan OZP No. S/K5/37 (**Plan A-1**). According to Schedule II of the Notes of the OZP for the “OU(B)” zone applicable to industrial or industrial-office (I-O) building, ‘Shop and Services (not elsewhere specified)’ on the G/F of an industrial building requires planning permission from the Town Planning Board (the Board).

- 1.2 Part of the Premises is the subject of a previous application No. A/K5/691 for ‘Shop and Services (Fast Food Shop)’ (**Plan A-2a**). The application was approved with conditions by the Metro Planning Committee (the Committee) of the Board on 23.4.2010. The planning permission was revoked on 23.10.2010 due to non-compliance with the approval condition on the submission and implementation of fire service installations.
- 1.3 The floor plan and layout plan showing the Premises, as submitted by the applicant, are at **Drawings A-1** and **A-2** respectively. According to the applicant’s submission, the Premises is subdivided into two smaller units for the proposed use and is accessible directly from Cheung Lai Street (**Drawing A-2**). The Premises is currently vacant (**Plan A-4**).
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form received on 25.9.2020 and (**Appendix I**) supplementary information received on 29.9.2020
 - (b) Letter dated 27.10.2020 providing revised floor plans (**Appendix Ia**) *[Accepted and exempted from the publication and recounting requirements]*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are set out at **Appendix I**. They are summarised as follows:

- (a) the proposed use is compatible with the uses in the surroundings and it is in line with the planning intention of the “OU(B)” zone and the Town Planning Board Guidelines for Development within “OU(B)” Zone (TPB PG-No. 22D);
- (b) there is demand for shop and services in the neighbourhood as the properties in the locality are mainly redeveloped for office uses;
- (c) the Premises is accessible via Cheung Lai Street. The proposed use will not induce adverse environmental impact and fire risk and the applicant would implement fire safety installations at the Premises; and
- (d) there are similar approved applications for ‘Shop and Services’ uses in the surrounding area. Favourable consideration should be given to the subject application.

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

The applicant is the sole “current land owner” of the Premises. 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 are 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 as a general principle 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 and the routine activities of the workers in the industrial or I-O building. These uses include bank, fast food counter, electrical shop, local provisions store and showroom in connection with the main industrial use; 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, and all other statutory or non-statutory requirements of relevant Government departments must also be met.

5. Previous Applications (Plan A-2a)

- 5.1 The Premises is the subject of two previous planning applications (Nos. A/K5/624 and A/K5/691) which were submitted by different applicants. Application No. A/K5/624 covering all ground floor units of the subject industrial building for shop and services (Units 1, 2 and 3B for shop and services and Unit 3A for electrical-cum-repairing shop) was approved with conditions by the Committee on 15.12.2006. The approval condition on the submission and implementation of fire service installations has been complied with.
- 5.2 Application No. A/K5/691 for shop and services (fast food shop) covering a small portion of the Premises was approved with conditions by the Committee on 23.4.2010. The planning permission was revoked on 23.10.2010 due to non-

compliance with the approval condition on the submission and implementation of fire service installations.

5.3 Details of the previous applications are at **Appendix II**.

6. Similar Applications

6.1 The Committee has considered a total of two applications (i.e. the two previous applications Nos. A/K5/624 and A/K5/691 mentioned in paragraph 5 above) for ‘Shop and Services’ uses on G/F of the subject industrial building (**Plan A-2a**). The details of the approved applications are shown in the table below.

Application No.	Unit No.	Proposed Use	Floor Area (m²)	Date of Consideration	Decision
Uses applicable for the maximum permissible limit of 460m ² for aggregate commercial floor area on G/F of an industrial building (with sprinkler systems)					
A/K5/624 ¹	1, 2 and 3B	Shop and Services (Units 1, 2 and 3B for Shop and Services and Unit 3A for Electrical-cum-Repairing Shop)	363.03	15.12.2006	Approved with conditions
Total Approved Commercial Floor Area:			363.03m²		
Uses not applicable for the maximum permissible limit of 460m ² for aggregate commercial floor area on G/F of an industrial building (with sprinkler systems)					
A/K5/624 ¹	3A	Shop and Services (Units 1, 2 and 3B for Shop and Services and Unit 3A for Electrical-cum-Repairing Shop)	140.72	15.12.2006	Approved with conditions
A/K5/691	3A1	Shop and Services (Fast Food Shop)	40.73	23.4.2010 (Revoked)	Approved with conditions

6.2 According to TPB PG-No. 22D, the proposed ‘Shop and Services (Fast Food Counter)’ use under the application is regarded as a use which is ancillary to or for the purposes of supporting the industrial activities and the routine activities of the

¹ The application premises covers Units 1, 2, 3A and 3B. The limit on aggregate commercial floor areas on the G/F of an industrial building is applicable to shop and service use at Units 1, 2 and 3B while it is not applicable to electrical-cum-repairing shop at Unit 3A as it is a use ancillary to or for the purposes of supporting the industrial activities and the routine activities of the workers in the industrial or I-O building.

workers in the industrial or I-O building. The limit on aggregate commercial floor areas on the G/F of an industrial building is not applicable to fast food counter.

- 6.3 Since 2001, the Committee has considered 152 planning applications for various ‘Shop and Services’ uses on the G/F of the industrial and I-O buildings within the “OU(B)” zone in the Cheung Sha Wan Industrial/Business Area. The Committee approved 142 of these applications while rejecting ten applications mainly for fire safety reasons.

7. The Site and Its Surrounding Areas
(Plans A-1, A-2 and A-2a and Photos on Plans A-3 and A-4)

7.1 The Premises:

- (a) occupies Unit 3A on G/F of Cheung Lung Industrial Building;
- (b) has direct frontage to Cheung Lai Street; and
- (c) is currently vacant.

7.2 The subject industrial building has the following characteristics:

- (a) is a 13-storey industrial building completed in 1977 and equipped with a sprinkler system; and
- (b) is currently used for the following purposes:

Floor	Main Uses
G/F	The Premises , shops, financial institution, canteen, local provisions store, real estate agency and car parking area
1/F	Canteen
2/F to 12/F	Industrial-related offices and warehouses

7.3 The surrounding areas have the following characteristics:

- (a) it is an established industrial/business area in Cheung Sha Wan (which was rezoned from “I” to “OU(B)” in 2001 and 2002);
- (b) the subject industrial building is surrounded mainly by industrial and I-O buildings with ‘Shop and Service’ uses on G/F; and
- (c) it is easily accessible by various modes of public transport with MTR Lai Chi Kok Station located next to the subject industrial building (**Plan A-2**).

8. Planning Intention

The planning intention of “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 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 summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Kowloon West, Lands Department (DLO/KW, LandsD):

- (a) the Premises falls within NKIL No. 5563 (“the Lot”) which is governed by Conditions of Sale No. 10582 dated 18.1.1974 (“the lease conditions”) that restricts the Lot to be used for industrial or godown purposes or both excluding offensive trade. The proposed ‘shop and services (fast food counter)’ use is not permitted under the lease conditions; and
- (b) if the subject planning application is approved by the Committee, the owner of the Premises has to apply to LandsD for a waiver or no-objection letter to permit the proposed ‘shop and services (fast food counter)’ use. However, there is no guarantee that the waiver/no-objection letter 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. In the event any such application is approved, it would be subject to such terms and conditions including, among others, the payment of waiver fee/premium and administrative fee as may be imposed by LandsD.

Building Matters

9.1.2 Comments of the Chief Building Surveyor/Kowloon, Buildings Department (CBS/K, BD):

- (a) no in-principle objection to the application;
- (b) the applicant is advised to engage an Authorised Person to ensure that any alterations and additions/change in use are implemented in compliance with the Buildings Ordinance (BO);
- (c) under section 14(1) of the BO, no person shall commence or carry out any building works without having first obtained approval and

consent from the Building Authority before commencement of works unless they are exempted under section 41 of the BO, or fall within minor works under the Building (Minor Works) Regulation;

- (d) detailed comments under the BO would be provided at the building plan submission stage; and
- (e) attention of the applicant should be drawn that “no objection” to the application should not be construed as an acceptance of any unauthorised building works (UBW) on the Premises under the BO. Enforcement action may be taken by the Building Authority to effect their removal in accordance with the BD’s enforcement policy against UBW as and when necessary.

Fire Safety

9.1.3 Comments of the Director of Fire Services (D of FS):

- (a) no in-principle objection to the application provided that:
 - (i) the fast food shop shall only be licensed and operated as ‘food factory’ or as ‘factory canteen’; and
 - (ii) fire service installations are provided to the satisfaction of his department. Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans or referral from licensing authority.

Traffic

9.1.4 Comments of the Commissioner for Transport (C for T):

- (a) no in-principle objection to the application at nil provisions of car parking and loading/unloading spaces given that the site is small with constrained layout, conveniently located to mass transport/public transport services, and the development scale is small; and
- (b) the applicant’s attention should be drawn that C for T has the rights to impose, alter or cancel any car parking, loading/unloading facilities and/or any no-stopping restrictions, on all local roads to cope with changing traffic conditions and needs. The frontage road space would not be reserved for any exclusive uses of the subject development.

Other Aspect

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

- (a) no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should arrange its disposal properly at their own expenses;
- (b) proper licence/permit shall be obtained from the Food and Environmental Hygiene Department (FEHD) if there is any food business regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public;
- (c) under the Food Business Regulation, Cap. 132X, a Food Factory Licence must be obtained from FEHD for food business which involves the preparation of food for sale for human consumption off the premises before commencement of such business; and
- (d) the application for Food Factory Licence, if acceptable by FEHD, will be referred to relevant government departments, such as LandsD and Planning Department for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (c) Chief Highway Engineer/Kowloon, Highways Department (CHE/K, HyD);
- (d) Commissioner of Police (C of P); and
- (e) District Officer (Sham Shui Po), Home Affairs Department (DO(SSP), HAD).

10. Public Comments Received During Statutory Publication Period

During the three-week statutory public inspection period, two public comments were received. Both were from individuals with one supporting the application as there is demand for fast food counter in the locality and one stating no objection to the application with concerns on hygiene issues of the proposed use (**Appendix III**).

11. Planning Considerations and Assessments

11.1 The application is to seek planning permission to use the vacant Premises for proposed 'Shop and Services (Fast Food Counter)' use. The planning intention of the "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 use would not result in adverse fire safety or environmental impacts. The proposed use at the

Premises is considered generally in line with the planning intention of the “OU(B)” zone.

- 11.2 The Cheung Sha Wan Industrial/Business Area is being transformed into commercial/business uses with many similar applications for ‘Shop and Services’ use approved on the G/F units of other industrial and I-O buildings in the vicinity of the Premises. The proposed use is considered compatible with the changing land use character of the area. Moreover, the proposed use is considered not incompatible with other uses of the same industrial building which mainly comprises shop and services on the G/F and industrial-related offices and warehouses on the upper floors.
- 11.3 The proposed use in general complies with TPB PG-No. 22D in that it would not induce adverse fire safety, traffic and infrastructural impacts on the developments within the subject building and the adjacent areas. Relevant Government departments including D of FS, C for T, CBS/K of BD, CE/C of WSD and CE/MS of DSD have no comment on/no objection to the application.
- 11.4 According to TPB PG-No. 22D, ‘Fast Food Counter’ would not be counted up to the aggregate commercial floor area. As suggested by D of FS, an approval condition to require the submission and implementation of fire service installations to his satisfaction is recommended.
- 11.5 Two applications for ‘Shop and Services’ use on the G/F of the subject industrial building were approved with conditions by the Committee in 2006 and 2010 (Table of paragraph 6.1 above and **Plan A-2a** refer). Application No. A/K5/691 submitted by a different applicant was revoked due to non-compliance with approval condition. There is no change in planning circumstances and the approval of the application is consistent with the previous decisions of the Committee on the similar applications.
- 11.6 Two public comments on the application were received. The departmental comments in paragraph 9 and planning assessments above 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, it is suggested that the permission shall be valid until 20.11.2024, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are suggested for Members’ reference:
Approval conditions
 - (a) the submission and implementation of fire service installations 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 (a) is not complied with before 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 planning 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 the 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

Appendix I	Application form received on 25.9.2020 and supplementary information received on 29.9.2020
Appendix Ia	Letter dated 27.10.2020 providing revised floor plans
Appendix II	Previous Applications
Appendix III	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Floor Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-2a	Ground Floor Plan of Cheung Lung Industrial Building
Plans A-3 and A-4	Site Photos