

MPC Paper No. A/K13/310
For Consideration by
the Metro Planning Committee
on 2.11.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K13/310

- Applicant** : Goodrich Time Limited represented by Royal Team Company
- Premises** : Unit 4A, G/F, Wing Fat Industrial Building, 12 Wang Tai Road,
Kowloon Bay, Kowloon
- Floor Area** : About 53.72m²
- Lease** : (a) New Kowloon Inland Lot (NKIL) 5894
(b) Restricted to industrial and/or godown purposes, excluding any offensive trade
- Plan** : Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan (OZP) No. S/K13/29
- Zoning** : “Other Specified Uses” annotated “Business” (“OU(B)”)

[Subject to a maximum plot ratio (PR) of 12.0 and a maximum building height of 120 metres above Principal Datum, or the PR and the height of the existing building(s), whichever is the greater. A minimum of 3m-wide non-building area from lot boundary abutting Wang Chiu Road shall be provided.]
- Application** : Temporary Shop and Services (Fast Food Shop) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for temporary ‘Shop and Services (Fast Food Shop)’ use for a period of 5 years. The Premises currently occupies Unit 4A on the G/F of an existing industrial building, Wing Fat Industrial Building. The building falls within an area zoned “OU(B)” on the draft Ngau Tau Kok and Kowloon Bay OZP No. S/K13/29 (**Plan A-1**). According to the Notes of the OZP for the “OU(B)” zone, ‘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 The Premises is the subject of a previous planning application No. A/K13/306

(**Plan A-3**) submitted by the same applicant for the same temporary use. The application was approved by the Metro Planning Committee (the Committee) of the Board on 25.8.2017. The permission was revoked on 25.2.2018 due to non-compliance with approval conditions relating to submission and implementation of proposal for fire safety measures.

1.3 According to the applicant, the Premises is used as food factories and divided into 3 units (Units 1 to 3 on **Drawing A-2**). However, the recent site inspection revealed that Units 1 and 2 of the Premises are used as fast food shops while the coffee shop at Unit 3 has ceased to operate (**Plans A-5 and A-6**).

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

- (a) Application form received on 5.9.2018 **(Appendix I)**
- (b) Supplementary information including replacements pages of the application form clarifying the current use and justifications, Certificates of Fire Service Installation and Equipment and Certificate on Fire Service Installation Plan received on 10.9.2018 **(Appendix Ia)**
- (c) Supplementary information including a replacement page of the application form clarifying the effective period of applied use received on 13.9.2018 **(Appendix Ib)**

1.5 Plans showing the layout of the G/F of the subject building and the Premises submitted by the applicant are at **Drawings A-1 and A-2**.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendix Ia**. They are summarized as follows:

- (a) There is no industrial operation at the Premises. Therefore, the use of the Premises for three units of fast food shops is proposed with opening hours from 8:00 am to 8:00 pm on Mondays to Saturdays (excluding public holidays).
- (b) The applicant was only able to resolve the issue on appointing fire service installation contractor with the management company of the subject building in May 2018. Currently, the fire service installations have been provided in the Premises and relevant fire certificates are enclosed for the Committee's consideration (**Drawing A-3 and 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 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 industrial-office (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 (FSD) 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 G/F of an existing industrial/I-O building with and without sprinkler systems should not exceed 460m² and 230m² respectively. For any application which would result in a slight exceedance of the relevant floor area limit, the applicant has to demonstrate that the fire safety concern can be satisfactorily addressed, and each case will be considered by the Board on its own merit. 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 Application**

The Premises is the subject of a previous planning applications No A/K13/306 (**Plan A-3**) submitted by the same applicant for the same temporary use. Details are set out in paragraph 1.2 above.

6. **Similar Applications**

- 6.1 The Committee has so far considered five planning applications for various ‘Shop and Services’ uses at the premises on the G/F of the subject industrial

building. All of these applications were approved by the Committee (**Plan A-3**). Details of the planning applications are shown in the table below:

Application No.	Unit	Applied Uses	Floor Area (about) (m ²)	Date of Decision	Decision
Uses applicable for maximum permissible limit of 460m ² for aggregate commercial floor area on G/F of an industrial building (with sprinkler systems)					
A/K13/262	4B	Shop and Services	30.6	12.11.2010 (Revoked on 12.5.2011 [#])	Approved with conditions
A/K13/275	4B	Shop and Services	35	8.7.2011	Approved with conditions
A/K13/293	6	Shop and Services (Retail Shops)	127.474	17.10.2014	Approved with conditions
A/K13/296	1A	Shop and Services	13.5	8.5.2015 (Revoked on 8.11.2016 [#])	Approved with conditions
A/K13/304	6	Shop and Services	127.474	28.4.2017	Approved with conditions
Total floor area of approved applications:			162.474 m²*		

Planning permission was revoked due to non-compliance of approval condition related to the submission and implementation of fire safety measures

* The total floor areas have excluded the floor areas in overlapping premises and approved cases of which planning permissions have been revoked

6.2 According to TPB PG-No.22D, the fast food shop under the application is regarded as a use that is ancillary to or for the purposes of supporting the industrial activities and the routine activities of the workers in the industrial/I-O building. Therefore, the limit on aggregate commercial floor area on the G/F of an industrial building is not applicable to the proposed use.

7. **The Premises and Its Surrounding Areas** (Drawings A-1 and A-2, Plans A-1 and A-2 and Site Photos on Plans A-4 to A-6)

7.1 The Premises:

- (a) occupies Unit 4A on the G/F of Wing Fat Industrial Building at 12 Wang Tai Road (**Plan A-3**);
- (b) is accessible from a pedestrian lane connecting Wang Chiu Road and Wang Tai Road with direct entrance separated from the entrance to other floors of the existing industrial building (**Plan A-2**); and
- (c) is divided into three units, Units 1 and 2 are used as fast food shops while the food business at Unit 3 has ceased operation (**Plans A-4 to A-6**).

7.2 The subject building is:

- (a) a 10-storey industrial building abutting Wang Tai Road and Wang Chiu Road;
- (b) equipped with a sprinkler system; and
- (c) the current uses by floor are summarised as follows:

Floor	Current Uses
G/F	The Premises , lobby, carpark, real estate agency ^[1] , canteens, money exchange ^[2] , fast food shops, courier services and locked unit.
1/F	Carpark, offices and warehouses
2/F to 9/F	Offices, warehouses, showrooms and party house ^[2]

^[1] The planning approval covering the premises has been revoked

^[2] There is no record of planning approval for such uses

7.3 The surrounding areas have the following characteristics:

- (a) the locality is mainly occupied by industrial or I-O buildings, including Hoplite Industrial Centre, First Group Centre and Proficient Industrial Centre to its east, south and west respectively;
- (b) to its immediate north is a commercial development and a public open space;
- (c) the G/F units of the neighbouring industrial buildings are mainly used for shop and services purposes such as eating places, real estate agencies, metalware shops, logistic facilities and money exchange while recycling facility, workshops, showrooms and warehouses can also be found at the G/F units of other industrial buildings in the vicinity; and
- (d) MTR Kowloon Bay Station is about 300m to the east.

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 East, Lands Department (DLO/KE, LandsD):

- (a) He has no objection to the application.
- (b) The Premises falls within NKIL 5894 (“the Lot”) which is held under the Conditions of Sale No. 11600 dated 19.3.1982 that restricts the Lot to be used for industrial or godown purposes or both excluding any offensive trade.
- (c) The proposed ‘Shop and Services (Fast Food Shop)’ use is in breach of the lease conditions. Should the planning application be approved by the Board, the applicant should apply to his office for a temporary waiver or a lease modification to give effect to the proposal. However, there is no guarantee that the temporary waiver or lease modification would be approved and if the application is eventually approved by LandsD in the capacity as the landlord at its discretion, it will be subject to those terms, including payment of any administration fee, waiver fee or premium as appropriate, as imposed by LandsD.
- (d) The floor area of the Premises and other details submitted by the applicant have not been verified and the applicant is required to demonstrate the dimensions and calculation of the floor area when the lease modification/waiver application is submitted.
- (e) According to his recent site inspection, the Premises has already been used as restaurants, which are in breach of the lease conditions. His office will take appropriate lease enforcement action pursuant to prevailing practice of his office.

Fire Safety

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

- (a) He has no objection to the application provided that:
 - (i) the proposed ‘Shop and Services (Fast Food Shop)’ use is ancillary to or for the purposes of supporting the industrial activities and the routine activities of the workers in the industrial building;
 - (ii) the proposed use is used for the selling of quick meals including drinks mainly for consumption off the Premises and operated as a fast food counter which is sited at street level only and licensed as food factories;

- (iii) the proposed use will not attract unreasonably large number of persons to stay for long periods of time, as in the case of restaurants and clubs;
 - (iv) the proposed use shall only be licensed and operated as 'food factory' or as 'factory canteen'; and
 - (v) fire service installations are provided to the satisfaction of his department. Detail fire safety requirements will be formulated upon receipt of formal submission of general building plans or referral from licensing authority.
- (b) The subject proposal licensed and operated as a 'general restaurant' or 'light refreshment restaurant' will not be accepted.
 - (c) The subject building is protected by a sprinkler system and so the maximum permissible aggregated commercial floor area is 460m² in accordance with TPB PG-No.22D. The applied use should not be counted to the aggregated commercial floor area if the proposed use is akin to a fast food counter.
 - (d) Regarding 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 (BA).

Building Matters

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

- (a) He has no in-principle objection to the application subject to his comments below.
- (b) The applicant should be advised to appoint an Authorized Person to assess the feasibility of the proposed alterations and additions works/change of use and whether building plans are required to be submitted to demonstrate compliance with the Buildings Ordinance (BO);
- (c) The applicant is required to observe the licensing requirements imposed by the relevant licensing authority;
- (d) For unauthorized building works (UBW) erected on private land/buildings, enforcement action may be taken by the BA to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning permission should not be construed as an acceptance of any existing building works or UBW on the Premises under the BO.

- (e) The applicant should pay attention to Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers APP-47 that the BA has no powers to give retrospective approval or consent for UBW.

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

- (a) Chief Highway Engineer/Kowloon, Highways Department;
- (b) Chief Engineer/Mainland South, Drainage Services Department;
- (c) Chief Engineer/Construction, Water Supplies Department;
- (d) Commissioner for Transport (C for T);
- (e) Director of Food and Environmental Hygiene; and
- (f) District Officer (Kwun Tong), Home Affairs Department.

10. **Public Comments Received During Statutory Publication Period**

On 14.9.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 5.10.2018, no comment was received.

11. **Planning Considerations and Assessments**

- 11.1 The application is to seek planning permission to use the Premises for temporary fast food shop use for a period of 5 years. According to the recent site inspection, Units 1 and 2 of the Premises are used as fast food shops while the food business at Unit 3 has ceased operation. As mentioned in paragraph 9.1.1 above, DLO/KE, LandsD advised that the Premises has been used as restaurants which are in breach of the lease conditions. His office will take appropriate lease enforcement action against the existing breach of the lease conditions.
- 11.2 The Premises is located within the “OU(B)” zone which is intended for general business uses. It allows greater flexibility in the use of the existing industrial or I-O buildings provided that the shop and services use would not induce adverse fire safety and environmental impacts. The temporary fast food shop use at the Premises is considered generally in line with the planning intention.
- 11.3 Kowloon Bay Business Area is being transformed into commercial use with similar applications approved for ‘Shop and Services’ uses on the G/F of industrial or I-O buildings in the vicinity. The temporary fast food shop use at the Premises is not incompatible with the surrounding areas. For the subject building, three planning applications at other units on the G/F have been approved for ‘Shop and Services’ use, of which all are still valid.
- 11.4 As confirmed by D of FS, the subject building is protected by a sprinkler system and the limit on the aggregate commercial GFA on the G/F of industrial building does not apply to the fast food shop use. The use complies with TPB PG-No.22D in that it would not induce adverse fire safety, traffic, environmental and infrastructural impacts to the developments within the subject building and

the adjacent areas. Relevant Government departments including D of FS, CBS/K, BD and C for T have no objection to/comment on the application. Based on the comments from D of FS, an approval condition concerning the provision of fire safety measures is recommended at paragraph 12.2 below.

11.5 The previous planning permission granted to the Premises (No. A/K13/306) was revoked on 25.2.2018 due to non-compliance with the approval condition on fire safety measures before the specified date. Shorter compliance periods are proposed to monitor the progress of compliance should the Committee decide to approve the application. Moreover, the applicant would be advised that should he 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 There is no public comment received on the application.

12. **Planning Department's Views**

12.1 Based on the assessments made in paragraph 11, 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 5 years, as applied for, up to 2.11.2023. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission of the proposal for fire safety measures, including the provision of fire service installations in the application premises within three months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 2.2.2019;
- (b) the implementation of the proposal for fire safety measures, including the provision of fire service installations in the application premises within six months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 2.5.2019; and
- (c) if any of the above planning conditions (a) or (b) is not complied with by the specified dates, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

12.3 The recommended advisory clauses are at **Appendix II**.

12.4 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.
- 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 5.9.2018
Appendix Ia	Supplementary information received on 10.9.2018
Appendix Ib	Supplementary information received on 13.9.2018
Appendix II	Recommended Advisory Clauses
Drawing A-1	Floor plan of the G/F of the subject building
Drawing A-2	Layout plan of the Premises
Drawing A-3	Fire Service Installation Plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Similar applications on G/F of the subject building
Plans A-4 to A-6	Site photos