

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K7/117

- Applicant** : Ms. Sarah LING
- Premises** : G/F, 1A La Salle Road, Kowloon
- Floor Area** : About 140m²
- Lease** : (a) Kowloon Inland Lot No. 2097 s.H ss.1
- (b) Government lease dated 26.7.1930 for a term of 75 years commencing from 6.2.1928 with a right of renewal for a further term of 75 years
- (c) Main restrictions include:
- not erect of any building other than detached or semi-detached houses of an European type;
 - front and range clause;
 - designs of the exterior elevation plans and disposition subject to special approval;
 - height of any building not exceeding 35 feet except with the consent of the Director;
 - not erect any building within 20 feet of Prince Edward Road;
 - no additions or alterations to the building except with written consent of the Director; and
 - non-offensive trade clause.
- Plan** : Approved Ho Man Tin Outline Zoning Plan (OZP) No. S/K7/24
- Zoning** : “Residential (Group B)” (“R(B)”)
- [Maximum plot ratio (PR) of 5 and maximum building height (BH) of 80mPD, or the PR and BH of the existing building, whichever is the greater]
- Application** : Proposed School (Tutorial School)

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed tutorial school at the application premises (the Premises), which is zoned “R(B)” on the OZP (**Plan A-1**).

According to the Notes of the OZP, 'School' not in a free-standing purpose-designed building is a Column 2 use in the "R(B)" zone and requires planning permission from the Town Planning Board (the Board). The Premises is currently vacant.

- 1.2 The Premises is located on the ground floor (G/F) of a 3-storey development at 1A and 1B La Salle Road (**Plan A-2**). According to the submission, the proposed tutorial school has a floor area of about 140m² and is planned to cater not more than 24 students, 4 teachers and 1 staff. The operation hours of the tutorial school will be from 10am to 7pm from Mondays to Saturdays, and there will be no operation on Sundays and public holidays. The entrance of the Premises on G/F abuts La Salle Road (**Plan A-3**) and is separated from the entrance to the upper floors. No parking space and loading/unloading (L/UL) facility is proposed. The layout plan of the proposed tutorial school submitted by the applicant is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:
 - (a) Application form and supplementary information (**Appendix I**) received by the Board on 18.3.2019
 - (b) Replacement layout plan received by the Board on (**Appendix Ia**) 2.5.2019

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are provided in the application form and supplementary information (**Appendix I**). They are summarized as follows:

- (a) the proposed tutorial school is not incompatible with other uses within the same building and in the neighbourhood. There are more than 20 primary and secondary schools in the vicinity and there is high demand for tutorial schools;
- (b) the proposed access to the Premises would not cause disturbance or nuisance to the local residents. The proposed main entrance to the proposed tutorial school is directly at the shop front and is separated from the main entrance/exit of the subject building, thus would minimize any disturbance to the residents in the same building. The shop front main entrance will be able to cope with the number of students going to/from the Premises and would not affect the existing means of escape provisions of the building;
- (c) it is planned that not more than 24 students, 4 teachers and 1 staff will stay in the Premises. Given the small scale of operation, parking and L/UL facilities are not required in accordance with the requirements stipulated in the Hong Kong Planning Standards and Guidelines (HKPSG) for tutorial, primary and secondary schools;
- (d) the opening hours will be from 10am to 7pm from Mondays to Saturdays, and there will be no operation on Sundays and public holidays. Moreover, the Premises will be air-conditioned and would not create any noise nuisance to others; and
- (e) it is estimated that majority of the students are either from schools nearby or residents living in the surrounding areas, and would walk to/from the Premises without

generating additional traffic volume.

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

The applicant is not the “current land owner” but has complied with the requirements as set out in the TPB 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 the consent of concerned current land owners. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The TPB Guidelines No. 40 for “Application for Tutorial School under Section 16 of the Town Planning Ordinance” (TPB PG-No. 40) promulgated in February 2008 is relevant to this application. The relevant main assessment criteria are summarized as follows:

- (a) the proposed tutorial school should not be incompatible with other uses within the same building. In assessing the compatibility with other uses within the same building or surrounding development, consideration will normally be given only to the permitted uses within the building(s);
- (b) to avoid causing disturbance or nuisance to the local residents, tutorial school will normally not be permitted within a residential building or the domestic portion of a composite commercial/residential building unless the proposed access to the application premises will not cause disturbance or nuisance to the local residents;
- (c) the proposed access (entrance) to the tutorial school of a residential building or the domestic portion of a composite building must be separated from that of the domestic portion of the building by way of separate stairways and/or lifts/escalators exclusively serving the tutorial school so as to minimize any disturbance to the residents in the same building. Unless an applicant can come up with practical and implementable proposals to demonstrate the proposed tutorial school would not create nuisances to the residents, access to the tutorial school through the common area of the residential development is generally not supported as the amenities of the local residents will be affected. Proposed access should not affect the existing means of escape provisions of the building. Otherwise, approval of Building Authority (BA) should be obtained. For tutorial schools of a considerable scale, i.e. with 120 or more students attending classes at the same time, proper parking and L/UL facilities should be provided in accordance with the requirements stipulated in the HKPSG for primary or secondary schools;
- (d) the views of the public on the proposed tutorial school will be taken into account by the Board in consideration of the application; and
- (e) the Fire Services Department (FSD) and the Buildings Department (BD) should be satisfied with the proposals to comply with the fire and building safety requirements for the proposed tutorial school.

5. Previous Application

The Premises is the subject of a previous application (No. A/K7/60) submitted by a different applicant for proposed tutorial school comprising three classrooms, an activity room and a staff office area for about 15 to 20 students, with opening hours from 9am to 6pm. The application was approved by the Metro Planning Committee (the Committee) on 4.4.2003 for the reasons that the applied use was not incompatible with the neighbouring environment and adverse impacts to the area were not anticipated. The approved use was not commenced within the validity period and planning permission lapsed on 4.4.2007. Details of the application are summarized at **Appendix II** for Members' reference.

6. Similar Applications

- 6.1 Since 2000, there are 38 similar planning applications for tutorial school use under "R(B)" zone in the Boundary Street/Prince Edward Road West neighbourhood (**Plan A-1**). Among them, 30 applications were approved with/without conditions by the Committee mainly for the reasons that the proposed tutorial school use was not incompatible with the other uses within the same building and the surrounding areas, and was not expected to generate adverse impacts on the surrounding areas. 8 applications were rejected mainly on the grounds of causing nuisance and security concerns to the local residents, lack of separate access to the premises from public road, absence of separate exclusive access to the premises located at the inner part of the residential buildings, aggregation of traffic congestion at Prince Edward Road West, and setting of undesirable precedents.
- 6.2 Details of the similar applications are summarized at **Appendix III** for Members' reference.

7. The Premises and Its Surrounding Areas (Plans A-1 and A-2 and site photos on Plans A-3 and A-4)

- 7.1 The Premises:
- (a) is currently vacant; and
 - (b) is located at G/F of an existing 3-storey residential building abutting La Salle Road. The entrance to the Premises is via La Salle Road and is separated from the entrance to the upper floors.
- 7.2 The subject building was completed in 1956. According to the Occupation Permit (OP) of the building, the building is for domestic use but from recent site visit, most premises are currently occupied by non-domestic uses/vacant. The existing uses of the building by floors (as at 2.4.2019) are summarized as follows:

Floors	Uses
G/F	The Premises (vacant) and an office ^[1] /a vacant premises
1/F	A music/art learning centre ^[1] and a school ^[1]
2/F	A vacant premises and a table tennis training centre ^[1]

^[1] There is no record of planning permission for such use.

7.3 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) the subject building is located in an area mainly with low to medium-density residential developments. Some non-residential uses, such as tutorial schools and learning centres, etc. can also be found in the area;
- (b) to the north across Boundary Street is La Salle Primary School. A number of primary and secondary schools are located in the area; and
- (c) the area is well-served by various modes of public transport, such as buses and minibuses.

8. Planning Intention

The “R(B)” zone is intended primarily for medium-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

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) The Premises falls within Sub-section 1 of Section H of Kowloon Inland Lot No. 2097. The lot is governed by Government lease dated 26.7.1930 for a term of 75 years commencing from 6.2.1928 with a right of renewal for a further term of 75 years. As to the user of the lot, it is noted from the OP dated 3.12.1956 that the Premises were designated for domestic use on the general building plan (GBP) by the BA.
- (b) The proposal is concerning the change of use of the existing Premises. The applicant declares that no additions or alterations (A&A) works would be involved. However, he reserves his comments at the building plan stage and would remind that prior consent from the Director of Lands should be required in case of proposed A&A works to the existing building.

Building Matters

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

- (a) He has no objection to the application.

- (b) All building works are subject to compliance with the Buildings Ordinance (BO).
- (c) His comments on the building proposal of the development would be subject to submission of more detailed plans or application for approval under the BO.

Traffic

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

He noted that the applicant estimated that the students will be going to the Premises on foot. As such, he has no comment on the application from traffic engineering point of view provided that the proposed tutorial school would not generate additional traffic and parking demand in the lot.

Environment

9.1.4 Comments of Director of Environmental Protection (DEP):

- (a) He has no objection to the application from the environmental perspective.
- (b) Based on the information provided by the applicant, it is noted that insurmountable environmental impacts associated with the proposed use is not anticipated.
- (c) The applicant is advised to follow the relevant requirements of the HKPSG in respect of the air quality and noise aspects as far as practicable regarding the environmental perspective.

Fire Safety

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

- (a) He has no objection in principle to the application subject to fire service installations and water supplies for firefighting being provided to the satisfaction of his Department. Detailed fire services requirements will be formulated upon receipt of formal submission of GBP.
- (b) The fire services requirements regarding licensed premises would be imposed upon receipt of formal application via Licensing Authority.
- (c) As no details of the emergency vehicular access (EVA) have been provided, comments could not be offered by his Department at the present stage. Nevertheless, the applicant is advised to observe the requirements of EVA as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Building 2011 which is administrated by BD.

Education

9.1.6 Comments of the Secretary for Education (SED):

- (a) For school registration procedures, registration of schools is granted in accordance with the stipulated requirements under the Education Ordinance (Cap. 279) and relevant Guidelines. Clearance from the Board and LandsD should be obtained in respect of the Premises. In addition, the Premises should be suitable for school use in terms of fire safety and building safety as confirmed by the D of FS and CBS/K, BD respectively. The applicant should also submit the documentary proof of the right to use the premises, OP (for premises designed and constructed as a school), the proposed curriculum, courses and fees information, etc. for SED's consideration.
- (b) There was no application for registration of school received.

District Officer's Comments

9.1.7 Comments of the District Officer (Kowloon City), Home Affairs Department (DO(KC), HAD):

He has no comment on the application. He noted that the interested Kowloon City District Council (KCDC) members, Lung Tong Area Committee, Owners' Corporations (OCs), Mutual Aid Committees (MACs), management committees and residents of the buildings near the Premises have been notified and invited to make comments to the Board. The Board should take into account their comments gathered in the consultation exercise.

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

- (a) Commissioner of Police;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Chief Highway Engineer/Kowloon, Highways Department; and
- (d) Chief Engineer/Mainland South, Drainage Services Department.

10. Public Comments Received During Statutory Publication Period

The application was published for public inspection on 26.3.2019. During the first three weeks of the statutory public inspection period, which ended on 16.4.2019, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed tutorial school use at G/F of an existing building in "R(B)" zone, which is primarily intended for medium-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. Although the proposed tutorial school is not

entirely in line with the planning intention of the “R(B)” zone which is primarily for residential use, the proposed tutorial school is considered not incompatible with the surrounding developments. Most of the premises of the building are currently occupied by non-domestic uses or vacant. The Premises is currently vacant with floor area of about 140m². It is planned to cater for not more than 24 students, 4 teachers and 1 staff. No parking space and L/UL facility is proposed.

- 11.2 The tutorial school is considered in compliance with TPB PG-No.40 in the following aspects:
- (a) the Premises is located on G/F of a 3-storey building. The tutorial school is considered not incompatible with other uses within the same building, and the surrounding developments comprising schools and residential developments with commercial uses on G/F including tutorial schools and learning centres;
 - (b) the main entrance/exit to the Premises at La Salle Road is separated from the entrance of upper floors of the building. Since the tutorial school can be accessed directly from the main road without the need to route through common areas of the subject building, disturbance or nuisance to other users of the building is not anticipated; and
 - (c) D of FS and CBS/K of BD have no in-principle objection to/adverse comment on the application from fire and building safety viewpoints.
- 11.3 According to the submission, majority of their students are either from schools in the nearby area or residents living in the surrounding area and would walk to/from the Premises, and no additional parking demand and traffic volume would be generated. DO(KC) of HAD, C for T and C of P have no objection to/adverse comment on the application.
- 11.4 Based on the information provided by the applicant, as insurmountable environmental impacts associated with the proposed use is not anticipated, DEP has no objection from environmental perspective. Government departments consulted, including SED, DLO/KE of LandsD and those mentioned above have no objection to/comment on the application.
- 11.5 The Premises is the subject of a previous application (No. A/K7/60) for proposed tutorial school submitted by a different applicant, which was approved by the Committee on 4.4.2003 for the reasons that the applied use was not incompatible with the neighbouring environment and adverse impacts to the area were not anticipated. The approved use was not commenced within the validity period and the planning permission lapsed on 4.4.2007. Since 2000, 30 similar applications for tutorial school within “R(B)” zone in the vicinity were approved by the Committee for reasons that the applied use was considered not incompatible with the other uses within the same building and the surrounding areas, and was not expected to impose adverse impacts on the surrounding areas. For the 8 rejected applications, their circumstances are different from the current application in that most of them did not comply with the TPB PG-No. 40 as those premises did not have separate exclusive access from public road and might aggregate traffic congestion on Prince Edward Road West. Approval of the current application is not inconsistent with previous decisions of the Committee on similar approvals.

11.6 There was no public comment received on the application.

12. Planning Department's Views

12.1 Based on the assessments 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 until 17.5.2023, 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 condition of approval and advisory clauses are also suggested for Members' reference:

Approval Condition

The submission and implementation of fire service installations and water supplies for firefighting prior to commencement of school operation to the satisfaction of the Director of Fire Services or of the Town Planning Board.

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.

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 and supplementary information received by the Board on 18.3.2019
Appendix Ia	Replacement layout plan received by the Board on 2.5.2019
Appendix II	Previous application covering the Premises
Appendix III	Similar applications for school (tutorial school) use within "R(B)" zone in the vicinity
Appendix IV	Recommended advisory clauses

Drawing A-1	Layout plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plans A-3 and A-4	Site photos

**PLANNING DEPARTMENT
MAY 2019**