

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/K7/119**

- Applicant** : Great Prosper Development Limited represented by Vision Planning Consultants Limited
- Premises** : 128 Waterloo Road, Kowloon (G/F (Part) of the Proposed Residential Development)
- Floor Area** : About 37.821m<sup>2</sup>
- Lease** : (a) Kowloon Inland Lot (KIL) No. 1900
- (b) Government lease dated 29.1.1930 for a term of 75 years commencing from 1.12.1924 renewable for a further term of 75 years
- (c) Main restrictions include:
- rate and range clause;
  - in the event of domestic houses being erected on the said piece or parcel of ground erect houses of an European type only the designs of the exterior elevations and the disposition thereof to be subject to the special approval of the said Director of Public Works; 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 located at part of the ground floor (G/F) of a 19-storey residential redevelopment with an existing district electricity sub-station (ESS) (on top of one level of basement carpark). The residential building previously on the site has been demolished (with the ESS remained) and construction works for the redevelopment is in progress (**Plans A-2 and A-3**).

- 1.2 According to the submission, the proposed tutorial school has a floor area of about 37.821m<sup>2</sup> and is planned to accommodate not more than 7 students and 1 teacher/staff. The operation hours will be from 10am to 7pm from Mondays to Saturdays, and there will be no operation on Sundays and public holidays. The proposed tutorial school will be exclusively served by a stand-alone pedestrian walkway with a separated entrance/exit at Waterloo Road, and will be equipped with air-conditioning system without relying on opened windows for air ventilation. No parking space and loading/unloading (L/UL) facility is proposed. It is noted that a L/UL space on G/F on the latest approved building plans (approved by the Building Authority (BA) on 21.12.2018) is deleted to accommodate the proposed tutorial school. The floor area of the proposed tutorial school will be included in the PR calculation of the site. The layout plan of the proposed tutorial school, floor plan of G/F of the residential redevelopment and elevation plan submitted by the applicant are at **Drawings A-1 to A-3**.
- 1.3 The residential redevelopment covers a site area of about 1,691.8m<sup>2</sup>, with vehicular accesses on both Waterloo Road and Boundary Street. Under the Notes of the OZP for “R(B)” zone, residential use is always permitted and the ESS<sup>1</sup>, if left intact, is considered as an ‘existing use’ and no planning permission is required. Moreover, the proposed total PR of the residential redevelopment with the proposed tutorial school cum the existing ESS will be in compliance with the PR restriction for “R(B)” zone.
- 1.4 In support of the application, the applicant has submitted the following documents:
  - (a) Application form received on 3.6.2019 (**Appendix I**)
  - (b) Supplementary planning statement received on 3.6.2019 (**Appendix Ia**)
  - (c) Replacement lot index plan received on 4.6.2019 (**Appendix Ib**)
  - (d) Further Information (FI) received on 19.6.2019 (FI 1) clarifying air ventilation arrangement of the proposed tutorial school (**Appendix Ic**)
  - (e) FI received on 3.7.2019 (FI 2) providing estimated sewage flow calculations and drainage layout plan of G/F of the residential redevelopment (**Appendix Id**)
  - (f) FI received on 16.7.2019 (FI 3) providing information to address Director of Environmental Protection (DEP)’s comments (**Appendix Ie**)

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<sup>1</sup> According to the occupation permit issued by the BA in 1968, the existing development is for residential use with an ESS, and was completed before the exhibition of the first Ho Man Tin OZP covering the site in 1985.

- (g) FI received on 18.7.2019 (FI 4) providing clarification on “current land owner” and PR calculation (Appendix If)
- (h) FI received on 25.7.2019 (FI 5) providing clarification on PR calculation (Appendix Ig)

## 2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are provided in the supplementary planning statement and FIs (Appendices Ia to Ig). They are summarized as follows:

- (a) the proposed tutorial school is located in the midst of “R(B)” sites on the two sides of Waterloo Road and Prince Edward Road West, which is suitable for providing a community-based private tutorial school to serve this part of the residential clusters in Kowloon Tong area;
- (b) the proposed tutorial school has self-contained design arrangements, for instance separated entrance access, independent toilet, water supply and power supply system, as well as considerate operation hours, which should minimize possible commercial/residential interface problems within the same building in the future;
- (c) there are 42 tutorial schools and learning centres within the 400m catchment of the Premises. Since 2000, the Board has already approved 31 similar applications for tutorial school use within “R(B)” zone on the same OZP;
- (d) the proposed tutorial school is not incompatible with other residential uses within the same building and its surrounding non-domestic developments provided that it complies with the main planning criteria set out in the in the Town Planning Board Guidelines No. 40 (TPB PG-No. 40);
- (e) the proposed tutorial fully complies with three out of five main planning criteria set out in the TPB PG-No.40. Fire and building safety requirements for the proposed tutorial school can be complied with at the general building plan (GBP) submission stage; and
- (f) the proposed tutorial school would not result in any unacceptable consequential adverse effect on the local area or the planning intention of the area in view of its nature as a community-based facility and small scale of operation.

## 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 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 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 Hong Kong Planning Standards and Guidelines (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 not the subject of any previous application.

## 6. Similar Applications

- 6.1 Since 2000, there are 39 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, 31 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. One approval (Application No. A/K7/114) was subsequently revoked due to non-compliance with an approval condition. Eight 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 II** for Members’ reference.

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

- 7.1 The Premises is located at part of the G/F of a residential redevelopment currently under construction.
- 7.2 The surrounding areas have the following characteristics (**Plans A-1** and **A-2**):
- (a) the subject residential redevelopment is located in an area mainly with low to medium-density residential developments;
  - (b) some non-residential uses, such as tutorial schools and learning centres, etc. can be found in the lower floors of residential developments;
  - (c) to the north across Boundary Street is Maryknoll Convent School. A number of primary and secondary schools are located in the area. To the west across Waterloo Road are St. Teresa’s Church and Caritas Social Centre; and
  - (d) the area is well-served by various modes of public transport, including 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 summarized 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 KIL No. 1900, which is governed by a Government lease dated 29.1.1930 for a term of 75 years commencing from 1.12.1924 renewable for a further term of 75 years.
- (b) The above Government lease contains, inter alia, the following salient conditions:
  - rate and range clause;
  - in the event of domestic houses being erected on the said piece or parcel of ground erect houses of an European type only the designs of the exterior elevations and the disposition thereof to be subject to the special approval of the said Director of Public Works; and
  - non-offensive trade clause.
- (c) Save for the conditions as mentioned in (b) above, the Government lease does not contain any user restriction or specify the type of building to be built. As such, the proposed tutorial school use at a portion of G/F of the proposed residential development is considered acceptable under lease.

### **Traffic**

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

He noted that the applicant anticipated 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**

9.1.3 Comments of the DEP:

- (a) He has no objection to the application from environmental perspective as it is understood that the proposed tutorial school will be fully equipped with air-conditioning and will not rely on opened

windows for ventilation and sufficient buffer distance between vehicular/industrial emission and the application premises as required under the HKPSG has been provided.

- (b) The applicant should be reminded that it is the applicant or his representative's responsibility to confirm the chimney information provided has been validated and updated. The submission might be invalidated if there are errors subsequently found in the chimney information provided.

### **Building Matters**

9.1.4 Comments of the Chief Building Surveyor/Kowloon (CBS/K), BD:

- (a) All building works are subject to compliance with the Buildings Ordinance (BO), and the school should be included in the gross floor area (GFA) calculations; and
- (b) His comments on the building proposal of the development would be subject to submission of more detailed plans or application for the approval under BO.

### **Fire Safety**

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

Based on the submitted information, he has no in-principle objection to the application subject to fire service installations and water supplies for firefighting being provided to the satisfaction of the Fire Services Department. Detailed fire services requirements will be formulated upon receipt of formal submission of GBP or referral from the licensing authority.

### **Education**

9.1.6 Comments of the Secretary for Education (SED):

- (a) There was no application for registration of school received. According to section 3(1) of the Education Ordinance, a "school" means an institution, organization or establishment which provides for 20 or more persons during any one day or 8 or more persons at any one time, any nursery, kindergarten, primary, secondary or post secondary education or any other educational course by any means, including correspondence delivered by hand or through the postal services. Section 10(1) of the Education Ordinance also requires every school to be registered or provisionally registered. Any institution, organization or establishment which provides educational courses and falling within in the above definition of "school" is required to be registered/provisionally registered.

- (b) According to the applicant's submission, the tutorial school would only accommodate not more than 7 students at one time. In this connection, it does not fall under the definition of "school" and registration is not required.

### **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 concern on this planning application have been notified and invited to make comments to the Board. The Board should take into account their comments, if any, when considering the application.

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

- (a) Commissioner of Police (C of P);
- (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**

10.1 The application was published for public inspection on 11.6.2019. During the first three weeks of the statutory public inspection period, which ended on 2.7.2019, 137 public comments were received, including five objecting comments/raising concerns (**Appendix IIIa**) and 132 supporting comments (**Appendix IIIb**) (with 128 in five types of standard forms at **Appendix IIIc**). Three comments raising objections/concerns are residents in the area/adjacent building while the remaining objecting comments are from members of the public. A full set of the public comments received would be deposited at the meeting for Members' reference.

10.2 The comments/concerns raised can be summarized as:

#### Supporting Views (132 comments)

- (a) the proposed tutorial school is self-contained with separate exclusive access and reasonable operation hours, which avoided commercial/residential interface problem;
- (b) the Premises is suitable for small-scale tutorial school activities;



- (c) the proposed tutorial school is compatible with surrounding area in terms of use and scale;
- (d) there is demand and need for tutorial school education in the neighbourhood as reflected by the number of similar tutorial schools in the vicinity, and the proposed tutorial school can help meet the demand;

Opposing Views/Concerns (5 comments)

- (e) the student pick up/drop-off activities from nearby learning centres and schools in the vicinity have caused traffic jams at Boundary Street/Waterloo Road area and inconvenience to local residents. The proposed tutorial school would aggravate the already congested traffic condition;
- (f) considering that Waterloo Road to the west of the proposed residential redevelopment is a single lane road, further traffic volume and illegal roadside parking caused by the proposed tutorial school would jeopardize safety of students and parents during peak hours; and
- (g) there are not less than 40 learning centres and tutorial schools in the vicinity, which greatly exceeds the educational needs of the residents nearby.

**11. Planning Considerations and Assessments**

- 11.1 The application is for proposed tutorial school use at part of G/F of a residential redevelopment within “R(B)” zone. The planning intention of the “R(B)” zone is primarily 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, it is considered not incompatible with the surrounding developments. The residential redevelopment is currently under construction, and the Premises has a floor area of about 37.821m<sup>2</sup> which will be included in the PR calculation of the site. The proposed total PR of the residential redevelopment with the proposed tutorial school and the existing ESS is in compliance with the PR restriction of 5.0 for “R(B)” zone. It is planned to accommodate not more than 7 students and 1 teacher/staff. No parking space and L/UL facility is proposed.
- 11.2 The proposed tutorial school is considered in compliance with TPB PG-No.40 in the following aspects:
  - (a) the Premises is located at part of G/F of a 19-storey residential redevelopment. The proposed tutorial school is considered not incompatible with other uses within the residential redevelopment, and the surrounding developments comprising schools and residential

developments with commercial uses on G/F including tutorial schools and learning centres;

- (b) the entrance/exit to the exclusive pedestrian walkway at Waterloo Road leading to the Premises is separated from the entrance to upper floors of the residential redevelopment. Since the proposed 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 residential redevelopment 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 residential neighbourhood and will walk to/from the Premises, and additional traffic and parking demand is not anticipated. 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. SED indicated that if the proposed tutorial school would accommodate less than 8 students at any one time, registration of school is not required under the Education Ordinance. Other government departments consulted, including DLO/KE of LandsD and CBS/K of BD, have no objection to/comment on the application.

11.5 Since 2000, 31 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 Regarding the public comments objecting to/raising concerns on the application mainly on the grounds of undesirable additional traffic volume, illegal roadside parking, pedestrian safety and over-supply of tutorial schools in the locality, planning assessments in the above paragraphs are relevant, and SED, C for T and C of P have no objection to/adverse comments on the application.

## **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 2.8.2023, 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**

<b>Appendix I</b>	Application form received on 3.6.2019
<b>Appendix Ia</b>	Supplementary planning statement received on 3.6.2019
<b>Appendix Ib</b>	Replacement lot index plan received on 4.6.2019
<b>Appendix Ic</b>	FI 1 received on 19.6.2019
<b>Appendix Id</b>	FI 2 received on 3.7.2019
<b>Appendix Ie</b>	FI 3 received on 16.7.2019
<b>Appendix If</b>	FI 4 received on 18.7.2019
<b>Appendix Ig</b>	FI 5 received on 25.7.2019
<b>Appendix II</b>	Similar applications for school (tutorial school) use within "R(B)" zone in the vicinity
<b>Appendices IIIa to IIIc</b>	Public comments received during the statutory publication period
<b>Appendix IV</b>	Recommended advisory clauses

<b>Drawings A-1 to A-3</b>	Layout plan, floor plan and elevation plan submitted by the applicant
<b>Plan A-1</b>	Location plan with similar applications in the vicinity
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Site photos

**PLANNING DEPARTMENT  
AUGUST 2019**