

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K5/802

- Applicant** : East Global Properties Limited represented by W & T Artwork & Design Consultant Company
- Premises** : Part of Workshop A2 (Shop A2D), G/F, Block A, Hong Kong Industrial Centre, 489-491 Castle Peak Road, Cheung Sha Wan, Kowloon
- Floor Area** : 13.20 m²
- Lease** : (a) New Kowloon Inland Lot (NKIL) No. 3515 s.C, s.D & s.F
(b) To expire on 30.6.2047
(c) Restricted for factory purpose
- Plan** : Approved Cheung Sha Wan Outline Zoning Plan (OZP) No. S/K5/37
- Zoning** : “Other Specified Uses” annotated “Business 2” (“OU(B)2”)
- [Restricted to a maximum plot ratio (PR) of 12 and a maximum building height (BH) of 130mPD, or the PR/BH of the existing building, whichever is the greater. A minimum setback of 3.5m from the lot boundary abutting Castle Peak Road shall be provided.]
- Application** : Shop and Services (Fast Food Shop)

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Shop and Services (Fast Food Shop)’. The Premises is located within Workshop A2 (Shop A2D) on G/F of an existing industrial building (Block A of Hong Kong Industrial Centre), which falls within an area zoned “OU(B)2” 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 The Premises is part of the subject of a previous application (No. A/K5/668) (**Plan A-2a**) submitted by the same applicant for proposed temporary shop and services (showroom for garments), which was approved with conditions for a period of 3

years by the Metro Planning Committee (the Committee) of the Board on 27.2.2009. The approval condition in relation to the submission and implementation of fire service installations proposal before operation of the use was complied with. The planning permission was expired on 27.2.2012. The Premises is currently used as a fast food shop for selling of drinks without a valid planning permission.

- 1.3 As shown on the floor plan on **Drawing A-1**, the Premises can be accessed from Castle Peak Road. The layout plan and floor plan showing the Premises on G/F of the subject building, as submitted by the applicant, are at **Drawings A-1 to A-2**.
- 1.4 In support of the application, the applicant has submitted the following documents :
 - (a) Application form received on 26.10.2018 (Appendix I)
 - (b) Applicant's email dated 5.11.2018 providing justifications in support of the application (Appendix Ia)

2. Justifications from the Applicant

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

- (a) the demand for workshop in Hong Kong is reducing and low, and the Government has allowed the conversion of industrial spaces for commercial uses;
- (b) the current use for production of drinks does not comply with the Government Lease; and
- (c) most of the surrounding workshops have been converted for retail or food business uses.

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 Application

The Premises is the subject of a previous planning application (No. A/K5/668) (**Plan A-2a**) submitted by the same applicant for proposed temporary 'Shop and Services (showroom for garments)', which was approved with conditions for a period of 3 years by the Committee on 27.2.2009 mainly on the grounds that the proposed use was in line with the planning intention of the "OU(B)" zone for general business; the proposed use was not incompatible with the uses of the subject building; and it was unlikely to generate adverse traffic and environmental impacts on the surrounding areas. The approval condition in relation to the submission and implementation of fire service installations before operation of the use was complied with. The planning permission was expired on 27.2.2012.

6. Similar Applications

6.1 The Committee has so far considered a total of 14 applications for 'Shop and Services' use on G/F of the subject industrial building (**Plan A-2a**). Apart from the previous application as mentioned in paragraph 5 above, 11 applications (Nos. A/K5/556, 571, 664, 670, 674, 708, 719, 752, 761, 766 and 767) were approved with conditions, while two applications (Nos. A/K5/584 and 771) were rejected. Application No. A/K5/584 was rejected on the ground that the applicant had not demonstrated that the proposed conversion of loading/unloading spaces to a showroom would not adversely affect the loading/unloading facilities in the subject industrial building, while Application No. A/K5/771 was rejected on the grounds

that the proposed use does not comply with TPB PG-No. 22D as the total floor area accountable for the aggregate commercial floor area had exceeded the maximum permissible limit of 460m², and would set an undesirable precedent for similar applications. The details of the approved applications are shown in the table below.

Application No.	Unit No.	Proposed Use	Floor Area (m ²)	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/K5/571	A8 (Portion)	Shop and Services (Retail Shop)	4	24.9.2004 (Lapsed)	Approved with Conditions
A/K5/664	A1 (Portion)	Shop and Services (Fast Food Shop, retail shop, showroom)	121.05 (9.55m ² for retail shop applicable for the aggregate commercial floor area)	19.12.2008 (Revoked)	Approved with Conditions
A/K5/708	A9 & A10	Proposed Shop and Services	400	2.9.2011 (Lapsed)	Approved with Conditions
A/K5/752	A6	Shop and Services	117.9	9.5.2014	Approved with Conditions
A/K5/761	A5 & A6	Shop and Services	259.225	2.1.2015	Approved with Conditions
A/K5/767	A8 (Portion)	Proposed Shop and Services	200	17.7.2015	Approved with Conditions
Total Approved Commercial Floor Area*:			459.225 m²		
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/K5/556	A3 (portion)	Shop and Services (showroom for garments)	80.19	27.2.2004	Approved with Conditions
A/K5/668	A2	Proposed Temporary Shop and Services (showroom for garments) for a period of three years	215.68	27.2.2009 (Expired)	Approved with Conditions
A/K5/670	A9 & A10	Shop and Services (showroom for garments)	400	13.3.2009	Approved with Conditions
A/K5/674	A1	Shop and Services (showroom)	129.11	8.5.2009 (Lapsed)	Approved with Conditions
A/K5/719	A6	Shop and Services (showroom)	117.9	6.7.2012 (Revoked)	Approved with Conditions

Application No.	Unit No.	Proposed Use	Floor Area (m²)	Date of Consideration	Decision
A/K5/766	A7 (Portion) & A8 (Portion)	Proposed Shop and Services (Local Provisions Store and/or Fast Food Counter)	123	17.7.2015 (Lapsed)	Approved with Conditions

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

- 6.2 According to TPB PG-No. 22D, the proposed ‘Shop and Services (Fast Food Shop)’ use under the application is regarded as use which is 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. The limit on aggregate commercial floor areas on the G/F of an industrial building is not applicable to fast food shop.
- 6.3 Since 2001, the Committee has considered 143 planning applications for various ‘Shop and Services’ uses on the G/F of the industrial building and I-O buildings within the “OU(B)” zone in the Cheung Sha Wan Industrial/Business Area. The Committee approved 134 of these applications while rejecting nine applications mainly for fire safety reasons.

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

7.1 The Premises:

- (a) occupies part of workshop A2 (Shop A2D) on G/F of an existing industrial building (Block A of Hong Kong Industrial Centre) at the junction of Castle Peak Road and Tung Chau West Street;
- (b) is having direct frontage to Castle Peak Road; and
- (c) is currently used as a fast food shop for selling of drinks.

7.2 The subject industrial building has the following characteristics:

- (a) is a 13-storey industrial building completed in 1982 and equipped with a sprinkler system; and
- (b) is currently used for the following purposes:

Floor	Main Uses
G/F	The Premises , canteen, showrooms, food kiosk, restaurant ¹ , courier services counter ¹ , shops (including bakery) ¹ and car park
1/F to 12/F	Industrial-related offices/trading firms

¹ There is no record of planning approvals granted for the restaurant, courier services counter and some of the shops.

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 “Industrial” to “OU(B)” in 2001 and 2002);
- (b) the subject 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 within about 100m walking distance (**Plan A-1**).

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. 3515 s.C, s.D & s.F which is governed under the Conditions of Sale No. UB4268 dated 1.4.1948 as varied or modified by Conditions of Exchange (and Modification) No. 4481 dated 28.8.1950 for factory purposes. By a No-objection Letter dated 30.9.1982, the Premises is further permitted for banking purposes.
- (b) The proposed use at the Premises does not comply with the aforesaid conditions nor the No-objection Letter. If planning approval is granted, the applicant will need to apply to LandsD for a waiver or No-objection letter for the proposed use. However, there is no guarantee that the approval will be given. If the application is approved by LandsD acting in the capacity as the private landlord at its sole discretion, it will be subject to payment of fee/premium and imposition of other terms as may be appropriate.

Building Matters

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

- (a) He has no in-principle objection to the application.
- (b) Under section 14(1) of the Buildings Ordinance (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) Regulations.
- (c) The applicant is advised to engage an Authorized Person to check and ensure the followings are in compliance with the BO and its allied regulations:
 - (i) Adequate means of escape and fire resisting construction should be provided in accordance with the Building (Planning) Regulation (B(P)R) 41(1) and Building (Construction) Regulation 90 and the Code of Practice for Fire Safety in Buildings 2011 (FS Code).
 - (ii) Access and facilities for persons with disability should be provided in accordance with B(P)R 72 and Design Manual: Barrier Free Access 2008.
 - (iii) Provision of adequate sanitary fitments in accordance with Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations.
- (d) The use of the Premises as shown on the approved G/F plan dated 14.7.1982 is “workshop”. No alteration and addition plans have been received for the Premises.

Traffic

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

- (a) He has no in-principle objection to the application at nil provision of car parking and loading / unloading spaces given the following observation:
 - (i) small and constrained layout;
 - (ii) conveniently located to mass transport / public transport services; and
 - (iii) small scale of development.

- (b) The applicant should be reminded 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.

Fire Safety

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

- (a) He has no objection in principle to the application provided that :
 - (i) the proposed shop and services (fast food shop) is ancillary to or for purposes of supporting the industrial activities and the routine activities of the workers in the industrial building;
 - (ii) the proposed shop and services (fast food shop) 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;
 - (iii) the proposed shop and services (fast food shop) will not attract unreasonably large number of persons to stay for long periods of time, as in case of restaurants and clubs;
 - (iv) the proposed shop and services (fast food shop) 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. Detailed fire safety requirement will be formulated upon receipt of formal submission of general building plans.
- (b) The subject proposal licensed and operated as a ‘general restaurant’ or ‘light refreshment restaurant’ will not be accepted.
- (c) ‘Fast Food Counter’ would not be counted up to the aggregated commercial floor area in accordance with TPB PG-NO. 22D.
- (d) Regarding matters related to fire resisting construction of the Premises, the applicant is reminded to comply with “*Code of Practice for Fire Safety in Building*” which is administered by the Building Authority.

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

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

10. Public Comments Received During Statutory Publication Period

On 6.11.2018, the application was published for public inspection. During the three-week statutory public inspection period ending on 27.11.2018, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The application is to seek planning permission to use the Premises for ‘Shop and Services (Fast Food Shop)’ use. According to the recent site inspection, the Premises is currently used as a fast food shop for selling of drinks. The Premises is located within the “OU(B)” zone which is intended 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 fast food shop use at the Premises is considered generally in line with this planning intention.
- 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 under application is considered compatible with the changing land use character of the area. Moreover, the shop and services (fast food shop) use is considered not incompatible with other uses of the same industrial building which mainly comprises canteen, showrooms, shops and car park on the G/F and industrial-related offices / trading firms on the upper floors.
- 11.3 A total of 12 applications for ‘Shop and Services’ use on the G/F of the subject industrial building were approved by the Committee (**Plan A-2a**). Among them a previous application (No. A/K5/668) covering the Premises for proposed temporary ‘Shop and Services (showroom for garments)’ use for a period of three years was approved with conditions by the Committee on 27.2.2009 and the planning permission was expired. There is no change in planning circumstances and the approval of the application is consistent with the previous decisions of the Committee on similar applications.
- 11.4 The proposed use in general complies with the Town Planning Board Guidelines for Development within “OU(B)” zone (TPB PG-No. 22D) in that it would not

induce adverse fire safety, traffic, environmental or infrastructural impacts to the developments within the subject building and the adjacent areas. Relevant Government departments including FSD, BD, TD, WSD and DSD have no comments on / no objection to the application.

- 11.5 As confirmed by D of FS, 'Fast Food Counter' would not be counted up to the aggregated commercial floor area in accordance with TPB PG-NO. 22D. To address D of FS's concern of fire safety aspect, an approval condition in paragraph 12.2(a) below to require the submission and implementation of the proposal for fire safety measures to the satisfaction of D of FS is recommended.
- 11.6 No public comment on the application was received during the statutory public inspection period.

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, no time clause on commencement of development is proposed as the 'Shop and Services (Fast Food Shop)' use under application is already in existence. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval conditions

- (a) the submission and implementation of fire safety measures, including the provision of fire service installations, within six months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 21.6.2019; 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 be revoked immediately without further notice.

Advisory clauses

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

- 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
Appendix Ia	Applicant's email dated 5.11.2018
Appendix II	Advisory Clauses
Drawing A-1	Layout Plan submitted by the applicant
Drawing A-2	Existing Ground Floor Plan submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-2a	Previous and Similar Applications
Plan A-3 and A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2018**