

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K5/794

- Applicant** : FCS Empire Limited represented by Grandmax Surveyors Limited
- Premises** : Portion of Workshop No.2, G/F, Yuen Shing Industrial Building, 1033 Yee Kuk West Street, Kowloon
- Floor Area** : 13.695 m²
- Lease** : (a) New Kowloon Inland Lot (NKIL) No. 3854
(b) Restricted for general industrial purpose excluding offensive trades
- Plan** : Approved Cheung Sha Wan Outline Zoning Plan (OZP) No. S/K5/37
- Zoning** : “Other Specified Uses” annotated “Business 1” (“OU(B)1”)

[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 2m from the lot boundary abutting Castle Peak Road 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 is located within Workshop No.2 on G/F of an existing industrial building, which falls within an area zoned “OU(B)1” on the approved Cheung Sha Wan OZP No. S/K5/37. According to the Notes of the OZP, ‘Shop and Services (not elsewhere specified)’ on the G/F of an industrial or industrial-office (I-O) building within the “OU(B)” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises occupies a portion of the Workshop No.2. According to the submission, potential customers can access the Premises from Wing Hong Street via a proposed internal common corridor within the Workshop No.2 and the frontage on Wing Hong Street of Workshop No.2 will be in a fully open and accessible design (**Drawing A-2**). The applicant also expresses that a separate

application has been submitted to the Food and Environmental Hygiene Department (FEHD) for granting a food factory licence for the Premises.

1.3 In support of the application, the applicant has submitted the following documents :

- (a) Application form received on 10.5.2018 (Appendix I)
- (b) Applicant letter dated 22.6.2018 providing clarification of the proposal, with a replacement page of the proposed layout (Appendix Ia)

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 summarized as follows:

- (a) the proposed use will not induce any adverse environmental impact on or fire risk to the existing building;
- (b) the proposed use is compatible with the surrounding areas. Many redeveloped properties in the locality are now offices, which induce a strong need for fast food take-away shop;
- (c) there have been numerous approved planning applications for shop and services use in the locality; and
- (d) the proposed use complies with the planning context, and 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).

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 Standard and Guidelines, and all other statutory or non-statutory requirements of relevant Government departments must also be met.

5. Previous Application

There is no previous application at the Premises or the subject building.

6. Similar Applications

The Metro Planning Committee (the Committee) has considered 22 planning applications for shop and services uses comprising fast food counters/shops¹ on G/F of industrial or I-O buildings within the “OU(B)” zone in the Cheung Sha Wan Business Area. All the applications were approved with conditions. Planning permissions for 6 of them were subsequently revoked due to non-compliance with approval conditions on fire service installations/fire safety measures.

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 is currently vacant (**Plan A-4**).

7.2 The subject industrial building:

- (a) is a 13-storey industrial building completed in 1988 and equipped with a sprinkler system; and

¹ Some of the approved applications were particularly for fast food counters/shops while some of them were for a range of shop and services uses including fast food counters/shops.

- (b) is currently used for the following purposes:

Floor	Current Use
G/F	The Premises , a recyclable collection centre, shops ² and vehicle repair workshops ²
1/F	Offices/trading firms and an eating place ³
2/F to 6/F	Offices/trading firms and warehouses
7/F to 12/F	Offices/trading firms

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) various modes of public transport are in its vicinity, with MTR Lai Chi Kok Station located within about 350m 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) She has no objection to the application.
- (b) The Premises falls within NKIL 3854 (“the Lot”) which is governed by Government Lease dated 14.5.1958 as varied and modified by a Deed of Dedication and a Deed of Variation dated 18.10.1996 ~~1996~~ **1986** (“the lease conditions”). The Lot is restricted for

² There is no record of planning approvals granted for the shops and the vehicle repair workshops.

³ Eating place is not permitted at the subject location under the OZP unless it is a canteen. However, there is no information in PlanD’s record on whether it is a canteen with a valid licence.

general industrial purpose excluding offensive trades and the proposed 'shop and services (fast food counter)' use is not permitted under the lease conditions.

- (c) If the subject planning application is approved by the Board, 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 ("the waiver/NOL application"). However, there is no guarantee that the waiver/NOL 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):

He has no objection in principle to the application subject to the followings:

- (a) the applicant is advised to engage an Authorized Person to ensure that any alterations and additions / change of use are implemented in compliance with the Buildings Ordinance (BO);
- (b) 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 s.41 of the BO, or fall within Minor Works under the Building (Minor Works) Regulation;
- (c) the provision of adequate means of escape should be provided in accordance with the Building (Planning) Regulation 41(1) and the Code of Practice for Fire Safety in Buildings 2011 (FS Code);
- (d) fire barriers of adequate fire resistance rating pursuant to Building (Construction) Regulation 90 and the FS Code should be provided;
- (e) access and facilities for persons with a disability should be provided in accordance with Building (Planning) Regulation 72 and Design Manual: Barrier Free Access 2008;
- (f) sanitary fitments should be provided in compliance with the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulation; and

- (g) detailed comments under the BO would be provided at the building plan submission / licence application stage.

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 right 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 subject fast food counter 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 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) The captioned industrial building is protected by a sprinkler system and is subject to a maximum permissible aggregate commercial floor on G/F of 460m². However, ‘Fast Food Counter’ would not be counted up to the aggregated commercial floor area according to the Town Planning Guidelines (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.

Food Licences

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

- (a) She has no comment on the application.
- (b) The Premises is the subject of an application for food factory licence being processed by her department.

9.2 The following 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);
- (e) Director of Electrical and Mechanical Services (DEMS);
- (f) Director of Environmental Protection (DEP); and
- (g) District Officer (Sham Shui Po), Home Affairs Department (DO(SSP), HAD).

10. Public Comments Received During Statutory Publication Period

On 18.5.2018, the application was published for public inspection. During the three-week statutory public inspection period ending on 8.6.2018, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The “OU(B)” zone 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 proposed ‘Shop and Services (Fast Food Counter)’ use under application is considered generally in line with this planning intention.
- 11.2 Cheung Sha Wan is an established industrial/business area 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. Within the same industrial building the current uses are mainly offices/trading firms and warehouses. The proposed fast food counter under application is not incompatible with the surrounding developments or the uses in the same building.
- 11.3 As confirmed by D of FS, the subject industrial building is protected by a sprinkler system, and the limit on aggregate commercial gross floor area on the G/F of industrial building does not apply to the proposed fast food counter. FSD advises

that the subject fast food counter shall only be licensed and operated as 'food factory' or 'factory canteen'. The applicant expresses that a separate application to FEHD for food factory licence for the subject Premises has been submitted and FEHD indicates that the said licence application is being processed.

- 11.4 The proposed shop and services (fast food counter) at the Premises 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 area. Relevant Government departments including FSD, BD, TD, WSD, DSD and EPD have no objection to the application.
- 11.5 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, it is suggested that the permission shall be valid until 6.7.2022, 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 provision of fire service installations before operation of the use to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (b) if the above planning condition is not complied with before operation of the 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 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 Letter dated 22.6.2018
Appendix II	Advisory Clauses
Drawing A-1	Approved Building Plan (Ground Floor) submitted by the applicant
Drawing A-2	Layout Plan submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-2a	Ground Floor Plan of Yuen Shing Industrial Building
Plan A-3 and A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2018**