

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

**APPLICATION NO. A/K5/796**

- Applicant** : YEUNG Siu Ha represented by Thomas Tsang Surveyors Limited
- Site** : 269 Lai Chi Kok Road, Kowloon
- Site Area** : 102.84 m<sup>2</sup>
- Lease** : (a) New Kowloon Inland Lot (NKIL) No. 412  
(b) Virtually unrestricted except the non-offensive trades clause
- Plan** : Approved Cheung Sha Wan Outline Zoning Plan (OZP) No. S/K5/37
- Zoning** : “Residential (Group A)6” (“R(A)6”)

[Restricted to a maximum plot ratio (PR) of 7.5 for a domestic building or 9.0 for a building that is partly domestic and partly non-domestic, and a maximum building height (BH) of 80mPD (100mPD for sites with an area of 400m<sup>2</sup> or more), or the PR/BH of the existing building, whichever is the greater.

For a non-domestic building to be erected on the site, the maximum PR shall not exceed 9.0.]

- Application** : Proposed Office Building with Shop and Services

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a proposed 11-storey office building with shop and services on the lowest three floors of the building at 269 Lai Chi Kok Road, Kowloon (the Site) (**Plan A-1**). According to the Notes of the OZP for the “R(A)” zone, ‘Shop and Services’ is always permitted on the lowest three floors of a building, taken to include basements, or in the purpose-designed non-residential portion of an existing building, both excluding floors containing wholly or mainly car parking, loading/unloading bays and/or plant room. However, ‘Office’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board).
- 1.2 The proposal involves development of an office building at the Site with shop and services uses on G/F to 2/F, and all the above floors (i.e. 3/F to 10/F) for

office uses. The proposed total gross floor area (GFA) is 924.42m<sup>2</sup>, with total PR of 8.98 and BH of 34.5m. There will be no internal transport facilities.

- 1.3 The floor plan and section plan of the proposed office building are at the attached **Drawings A-3** and **A-4**. Key development parameters and floor uses of the proposed office building are as follows:

<b>Proposed Development Parameters</b>	
Site Area	102.84 m <sup>2</sup>
Non-domestic GFA:	
• Shop and Services	294.98m <sup>2</sup>
• Offices	629.44m <sup>2</sup>
Total	924.42m <sup>2</sup>
Total PR	8.98
Site Coverage	
• G/F	100%
• 1/F to 2/F	93%
• 3/F to 10/F	77%
No. of Storeys	11 (no basement)
Building Height	34.5 m (main roof)
Parking and Loading/Unloading Provision	Nil
<b>Main uses by Floor</b>	
G/F – 2/F	Shop and Services
3/F – 10/F	Offices

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

- (a) Application form with plans and supporting documents received on 5.6.2018; and **(Appendix I)**
- (b) Clarification letter received on 8.6.2018 (FI) **(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) under the option for residential development at the Site based on site coverage (SC) of 42% of domestic building with BH over 30m but not exceeding 36m, the residual area for residential uses on upper floors of the proposed building shall be 1.96m<sup>2</sup> after the deduction of the minimum core area of 41.23m<sup>2</sup> (including two escape staircases and one firemen lift with adequate protected lobby for compliance with the requirements under the Buildings Ordinance (BO)) (**Annex 4** and plan at **Appendix C** of **Appendix I**). However, the residual area for office development on the upper floors of the proposed building shall be 37.45m<sup>2</sup> after the deduction of the minimum core area (**Drawing A-3**) based on SC of 77% for the same BH. As such, the Site is not

worthy to proceed residential development, and office building is the only viable option for development at the Site;

- (b) drains and surface water can be collected and discharged into the public sewer outside the Site;
- (c) the Site is situated at a convenient and easily accessible location of about 10 minutes-walk to Sham Shui Po MTR Station. There are bus stops on Lai Chi Kok Road nearby;
- (d) although the proposed development cannot offer for appropriate loading and unloading area, such small and exquisite office building would not adversely impact on current traffic at Lai Chi Kok Road;
- (e) Sham Shui Po is a traditional retail and densely populated area. The proposed office building will support the economic growth of Hong Kong and help solving the demand for offices by the small and medium enterprises in the district; and
- (f) the provision of lowest three storeys of shops should definitely provide retail services to the neighbourhood.

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

The applicant is the sole “current land owner” of the application site. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Previous Application**

There is no previous application at the Site.

### **5. Similar Applications**

- 5.1 There are 29 similar applications for office development with or without shops/eating places/retail uses at the lower floors within “R(A)” zone in the OZP considered by the Committee since the promulgation of the Town Planning Board Guidelines for Application for Office Development in “R(A)” zone under Section 16 of the Town Planning Ordinance (TPB PG-No.5) in December 1990 (**Plan A-1**). All of them were considered by the Committee before the announcement of 2013 Policy Address which stated that the top priority of the Government was to tackle the housing problem and supply shortage lied at the heart of the prevailing housing problem. 8 of 29 cases were approved with conditions and the remaining 21 cases were rejected by the Committee.
- 5.2 Among the approved cases, 2 applications (Nos. A/K5/149 and A/K5/174) were completed but the remaining 6 applications have not been implemented.

- 5.3 For the 21 rejected cases, the main rejection reasons were summarised as follows:
- (a) the application site is too small for a properly designed commercial/office building;
  - (b) there are no/insufficient provision of on-site parking and/or loading/unloading (L/UL) bays/spaces for the proposed development. The proposed alternative on-street L/UL facilities are not satisfactory;
  - (c) the proposed office development is incompatible with the surroundings and/or not in line with the planning intention of the area; and
  - (d) approval of the application will set an undesirable precedent for similar applications within residential areas.
- 5.4 Application No. A/K5/782 for proposed shop and services, eating place, office and school (cookery-related) at 58 Castle Peak Road (**Plan A-1**) was deferred by the Committee upon applicant's request on 1.6.2018.
- 5.5 Details of the similar applications are summarized at **Appendix II**.

## **6. Town Planning Board Guidelines**

- 6.1 Town Planning Board Guidelines for Application for Office Development in "R(A)" zone under Section 16 of the Town Planning Ordinance (TPB PG-No.5) are relevant to this application. The main planning criteria are summarised as follows:
- (a) the site should be sufficiently large to achieve a properly designed office building;
  - (b) there should be adequate provision of parking and L/UL facilities within the site in accordance with the Hong Kong Planning Standards and Guidelines and to the satisfaction of the Transport Department;
  - (c) the site should be at an easily accessible location, e.g. close to the Mass Transit Railway Station or well served by other public transport facilities;
  - (d) the proposed office development should not cause congestion and disruption to the traffic flow of the locality;
  - (e) the proposed office building should be compatible with the existing and planned land uses of the locality and it should not be located in a predominantly residential area; and
  - (f) the proposed office development should be purposely designed for office/commercial uses so that there is no risk of subsequent illegal conversion to substandard domestic units or other uses.

- 6.2 In general, the Board will give favourable consideration to planning applications for office developments which produce specific environmental and planning gains – for example, if the site is located near to major sources of air and noise pollution such as a major road, and the proposed office development is equipped with central air-conditioning and other noise mitigation measures which make it less susceptible to pollution than a residential development. Other forms of planning gain which the Board would favour in a proposed office development would include public open space and community facilities required in the planning district.

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

7.1 The Site is:

- (a) currently vacant with temporary structures (**Plan A-4**);
- (b) abuts Lai Chi Kok Road with a service lane at the rear; and
- (c) flanked by residential buildings in its immediate surroundings.

7.2 The surrounding areas have the following characteristics:

- (a) predominantly residential buildings with commercial uses on the lower floors (**Plan A-3**) except one commercial development located on the opposite side of Lai Chi Kok Road (No. 292 Lai Chi Kok Road) (**Plan A-2**); and
- (b) the Site is easily accessible by various modes of public transport in its vicinity, with bus stops on Lai Chi Kok Road and MTR Sham Shui Po Station within walking distance (**Plan A-1**).

**8. Planning Intention**

The planning intention of the “R(A)” zone is primarily for high-density residential developments. Commercial uses are always permitted on the lowest three floors of a building or in the purpose-designed non-residential portion of an existing building.

**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 Site covers NKIL No. 412 (“NKIL 412”). NKIL 412 is governed by Government Lease dated 24.4.1923, which is virtually unrestricted except the standard non-offensive trades clause. The lot area under the Government Lease is 1,107ft<sup>2</sup> (about).
- (c) It is unclear whether the proposed shop and service uses on the lowest 3 floors include catering services such as restaurant and bar. As the subject lease contains an offensive trade clause, any offensive trades such as catering services are prohibited in the lot unless such lease restriction is removed by way of a licence or modification letter. However, there is no guarantee that the licence or modification application, if submitted, 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 licence fee/premium and administrative fee as may be imposed by LandsD.
- (d) Boundary details and detailed design of the development will be scrutinized at later stage and at the building plan submission stage.

### **Building Matters**

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

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

- (a) All building works/ change in use are subject to compliance with the BO.
- (b) The applicant is advised to appoint an Authorized Person to submit building plans for the proposed new development to demonstrate compliance with the BO, in particular:
  - (i) adequate means of escape should be provided to the premises in accordance with Building (Planning) Regulations (B(P)R) 41(1) and the Code of Practice for Fire Safety in Buildings 2011 (FS Code);
  - (ii) emergency vehicular access should be provided in accordance with B(P)R 41D and the FS Code;
  - (iii) access and facilities for persons with a disability including accessible toilet should be provided in accordance with B(P)R 72 and Design Manual: Barrier Free Access 2008; and

- (iv) natural lighting and ventilation should be provided to the proposed office development in accordance with B(P)R 30 and 31.
- (c) Regarding the proposed layout of the development, his comments are as follows:
  - (i) protected lobby to escape staircase shall be provided in accordance with Clause B10.4 of FS Code;
  - (ii) fireman's lift lobby shall be designed and compliance with Clause D11 of FS Code; and
  - (iii) he has no comment under the BO regarding the "minimum core areas" of the proposed development.
- (d) Detailed comments under the BO can only be provided at the building plan submission / licence application stage.
- (e) Regarding the issue on nuisance (e.g. sunlight, ventilation) on the nearby buildings caused by the proposed development, B(P)R has set out relevant requirements that no building shall reduce the quantity of light and air available to any other buildings below the requirements under B(P)R.

### **Traffic**

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

She cannot offer support to the application as no traffic impact assessment (TIA) including L/UL arrangements has been submitted to demonstrate no adverse traffic impact from the proposal.

### **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 subject to fire service installations and water supplies for firefighting being provided to the satisfaction of his department.
- (b) Detailed fire safety requirement will be formulated upon receipt of formal submission of general building plans.
- (c) The arrangement of emergency vehicular access shall comply with Section 6, Part D of the *Code of Practice for Fire Safety in Buildings 2011* which is administered by BD.

## **Environment**

### 9.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) Office developments are normally provided with central air conditioning system and the applicant / Authorized Persons should be able to select a proper location for fresh air intake during the detailed design stage to avoid exposing future occupants under unacceptable environmental nuisances / impact.
- (b) If the application is approved, the following approval conditions should be imposed:
  - (i) the submission of a Sewerage Impact Assessment (SIA) to the satisfaction of the Director of Environmental Protection or of the Town Planning Board; and
  - (ii) the implementation of the local sewerage upgrading / sewerage connection works identified in the SIA in planning condition (i) above to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

## **Urban Design and Landscape**

### 9.1.6 Comments of the Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) Significant visual impact is not anticipated.
- (b) The Site abuts on Lai Chi Kok Road alongside a row of low-rise composite buildings to its immediate northwest and southeast with a BH of about 25mPD to 42mPD (6-12 storeys). Two medium-rise composite buildings with BH of about 50mPD are located within the same street block. He has no particular comments on the proposed 11-storey office building with a BH of 34.5m and a PR of 8.98.

## **Electrical and Mechanical Services**

### 9.1.7 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the application from electricity supply safety aspect.
- (b) However, in the interest of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under this application should approach the electricity supplier (i.e. CLP Power) for the requisition



of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site.

- (c) The parties concerned should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

### **District Officer’s Comments**

9.1.8 Comments of the District Officer (Sham Shui Po), Home Affairs Department (DO(SSP), HAD):

- (a) She has no comment on the application.
- (b) Considering the proposed site coverage, scale and area (102.84m<sup>2</sup>), such small office building would not cause huge impact on the traffic. However, the Site falls between high and densely packed buildings, which may cause nuisance (e.g. sunlight, ventilation) to the nearby residents.

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); and
- (e) Director of Food and Environmental Hygiene.

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

On 12.6.2018, the application was published for public inspection. During the three-week statutory public inspection period ending on 3.7.2018, one public comment from an individual was received, objecting the application mainly on the ground of the proposed development not being in line with the planning intention of the “R(A)” zone (**Appendix III**).

## **11. Planning Considerations and Assessments**

### **Planning Intention and Local Character**

11.1 The subject application is for a proposed office building with shop and services on lower floors within “R(A)6” zone, which is intended primarily for high-

density residential developments with commercial uses always permitted on the lowest three floors of a building. The Site is located within a predominantly residential neighbourhood with high-density developments, except one commercial development located at the opposite side of Lai Chi Kok Road (**Plans A-2 and A-3**). The proposed office building is considered incompatible with the surrounding developments in land use term, which is predominantly a residential area. The proposed development is also not in line with the planning intention of the “R(A)6” zone, which is intended primarily for high-density residential developments.

#### Housing Land Supply

- 11.2 The 2013 Policy Address stated that the top priority of the Government was to tackle the housing problem and supply shortage lied at the heart of the prevailing housing problem, and the Government would undertake measures to increase housing land supply. Due to shortage of housing land, the Site should be retained for residential use unless with very strong justifications.
- 11.3 The proposed office development would result in reduction of sites available for residential developments and the supply of housing land in meeting the pressing housing demand over the territory. The applicant does not provide strong justification to demonstrate that the Site is very conducive for office development or the proposed development would meet a specific planning objective.

#### Town Planning Board Guidelines

- 11.4 The Site has an area of about 102.84m<sup>2</sup>, which is small in terms of area. Although the Site is located at an easily accessible location well-served by public transport, the proposed development does not comply with the relevant assessment criteria specified in TPN PG-No. 5 in that the Site is considered too small for a properly designed office building, the proposed development is considered incompatible with the surrounding which is a predominantly residential area, and C for T does not support the proposed development from traffic perspective (paragraph 11.5 below refers).

#### Technical Aspects

- 11.5 On the traffic aspect, C for T advises that they cannot support the application as the applicant has not submitted any TIA or sufficient information to demonstrate no adverse traffic impact from the proposed office development. Other departments including DSD, EMSD, EPD, FSD, HyD, WSD and CTP/UD&L of PlanD have no objection to or adverse comment on the application.

#### Similar Applications and Undesirable Precedent

- 11.6 Among the similar applications for office development with or without shops/eating places/retail uses on lower floors considered by the Committee since 1990, most of them were rejected mainly on the reasons of small site area, no/insufficient provision of internal transport facilities, incompatible with the

surroundings, not being in line with the planning intention of the area and setting an undesirable precedent for similar applications within the residential area.

- 11.7 For the approved applications, all of them were approved on or before 1995 and no approval has been granted since then. No application for office development with or without shop and services uses on the lower floors has been considered by the Committee after 2002. The application No. A/K5/782 for proposed shop and services, eating place, office and school (cookery-related) was deferred on 1.6.2018 by the Committee upon the applicant's request.
- 11.8 As there is no strong justification or planning merit submitted by the applicant to substantiate the case, approval of the subject application would set an undesirable precedent for similar applications for office development in the area, and the cumulative effect of approving such applications would aggravate the shortfall in the supply of the housing land and jeopardise the planning intention of the "R(A)" zone.

#### Public Comments

- 11.9 Regarding the public comments received, the departmental comments in paragraph 9 and planning assessment in paragraph 11 above are relevant.

### **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, the Planning Department does not support the application for the following reasons:
- (a) the application is not in line with the planning intention of the "R(A)6" zone which is for high-density residential developments. The Site is located in a predominant residential neighbourhood. Given the current shortfall in housing supply, the Site should be developed for its zoned use. The proposed office building with shop and services would result in reduction of sites for residential developments, which would affect the supply of housing land in meeting the pressing housing demand over the territory;
  - (b) the proposed development does not comply with the Town Planning Board Guidelines No. 5 for Application for Office Development in Residential (Group A) Zone under Section 16 of the Town Planning Ordinance as the application site is considered too small for a properly designed office building, the proposed development is considered incompatible with the surroundings which is a predominantly residential area and the submission fails to demonstrate that the proposed development would not generate adverse traffic impact on the surrounding areas; and
  - (c) approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such applications would aggravate the shortfall in the supply of housing land.

- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 3.8.2022, 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 also suggested for Members' reference:

Approval Conditions

- (a) the provision of fire service installations and water supplies for firefighting to the satisfaction of the Director of Fire Services or of the Town Planning Board;
- (b) the submission of a Traffic Impact Assessment including loading/unloading arrangements and implementation of the proposed improvement measures identified therein to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (c) the submission of a Sewerage Impact Assessment to the satisfaction of the Director of Environmental Protection or of the Town Planning Board; and
- (d) the implementation of the local sewerage upgrading/sewerage connection works identified in condition (c) above to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory clauses

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

**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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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.

**14. Attachments**

- Appendix I** Application form with plans and supporting documents received on 5.6.2018
- Appendix Ia** Clarification letter received on 8.6.2018 (FI)

<b>Appendix II</b>	Similar s.16 Applications ‘Office’ use with or without “Shops/Eating Places/Retail” uses within “R(A)” Zone on Cheung Sha Wan OZP since 1990
<b>Appendix III</b>	Public Comment received
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Location Plan submitted by the applicant
<b>Drawing A-2</b>	Lot Dimension Plan submitted by the applicant
<b>Drawing A-3</b>	Floor Plans submitted by the applicant
<b>Drawing A-4</b>	Section Plan submitted by the applicant
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3 and A-4</b>	Site Photos

**PLANNING DEPARTMENT  
AUGUST 2018**