

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

**APPLICATION NO. A/K5/819**

- Applicant** : Mr YUEN Tsz Kin represented by Grandmax Surveyors Limited
- Premises** : Units Nos. 1 (Portion) and 2 (Portion), G/F, Lai Cheong Factory Building, 479-479A Castle Peak Road, Cheung Sha Wan, Kowloon
- Area of Premises** : About 95.02m<sup>2</sup>
- Lease** : (a) New Kowloon Inland Lot (NKIL) No. 3516 s.A RP  
(b) 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 Counter)

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Shop and Services (Fast Food Counter)’. The Premises occupies portions of Units 1 and 2 on the G/F of an existing industrial building, namely Lai Cheong Factory Building, 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 As shown on the floor plan on **Drawing A-1**, the Premises is accessible directly from Kwong Cheung Street. The floor plan and layout plan showing the Premises, as

submitted by the applicant, are at **Drawings A-1** and **A-2** respectively. The Premises is currently used as fast food counter without valid planning permission.

- 1.3 In support of the application, the applicant has submitted an application form which was received on 6.5.2020 (**Appendix I**).

## 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 applied use is compatible with the surroundings and it 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);
- (b) there is demand for provision of shop and services in the neighbourhood as the properties in the locality are mainly redeveloped for office uses. There are also similar approved applications for shop and services uses on G/F of industrial buildings in the district; and
- (c) the applied use would not induce adverse environmental impact and fire risk and the applicant would implement fire safety installations at the Premises.

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

The applicant is not a “current land owner” of the Premises but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by sending notification to the owner of the Premises by registered mail. 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 460m<sup>2</sup> and 230m<sup>2</sup> 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 Applications

There is no previous application at the Premises.

## 6. Similar Applications

- 6.1 The Committee has considered an application for temporary 'Shop and Services' use on G/F of the subject industrial building for a period of 4 years (No. A/K5/714) (**Plan A-2a**), which was approved with conditions on a temporary basis by the Committee on 16.12.2011. The planning permission was expired on 16.12.2015. The details of the approved application are shown in the table below.

Application No.	Unit No.	Proposed Use	Floor Area (m <sup>2</sup> )	Date of Consideration	Decision
Uses applicable for the maximum permissible limit of 230m <sup>2</sup> for aggregate commercial floor area on G/F of an industrial building (without sprinkler system)					
A/K5/714	5B (portion)	Proposed Shop and Services for a Period of 4 Years	46.94	16.12.2011 (Expired)	Approved with conditions on a temporary basis
<b>Total Approved Commercial Floor Area*:</b>			<b>0 m<sup>2</sup></b>		
Uses <b>not</b> applicable for the maximum permissible limit of 230m <sup>2</sup> for aggregate commercial floor area on G/F of an industrial building (without sprinkler system)					
-					

- 6.2 According to TPB PG-No. 22D, the ‘Shop and Services (Fast Food Counter)’ 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 counter.
- 6.3 Since 2001, the Committee has considered 150 planning applications for various ‘Shop and Services’ uses on the G/F of the industrial and I-O buildings within the “OU(B)” zone in the Cheung Sha Wan Industrial/Business Area. The Committee approved 140 of these applications while rejecting ten applications mainly for fire safety reasons.

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

7.1 The Premises:

- (a) occupies portions of Units 1 and 2 on G/F of Lai Cheong Factory Building;
- (b) has direct frontage to Kwong Cheung Street; and
- (c) is currently used as fast food counter without valid planning permission.

7.2 The subject industrial building has the following characteristics:

- (a) is a 9-storey industrial building completed in 1961 without a sprinkler system; and
- (b) is currently used for the following purposes:

<b>Floor</b>	<b>Main Uses</b>
G/F	<b>The Premises</b> , shops*, office, car wash workshop*, warehouses and restaurant#
1/F to 8/F	Industrial-related offices/trading firms

\* No record of planning approval granted for the shop and services uses (**Plan A-2a**).

# Use not allowed unless in the purpose-designed non-industrial portion on the lower floors of the existing building and such use is separated from the industrial uses located above by buffer floors(s) of non-hazardous occupancy, and no industrial uses located within that non-industrial portion. In view of the above, this use is not allowed in the subject industrial building.

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 industrial 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 450m to the southwest (**Plan A-1**).

## **8. Planning Intention**

The planning intention of the “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 3516 s.A RP (“the Lot”) which are governed by the Conditions of Sale No. UB4268 dated 1.4.1948 (“the Conditions”) and restricted for factory purposes. The ‘Shop and Services (Fast Food Counter)’ use at the Premises is not permitted under the Conditions; and
- (b) if the subject planning application is approved by the Committee, the owner of the Premises has to apply to LandsD for a waiver or no-objection letter to permit the shop and services (fast food counter) use. However, there is no guarantee that the application will be approved. Such application, is received by LandsD, will be considered by LandsD acting in the capacity as the landlord at its sole discretion. If such application is approved, it would be subject to such terms and conditions including, among others, the payment of wavier fee/premium and administrative fee as may be considered appropriate by LandsD.

### **Building Matters**

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

- (a) no in-principle objection to the application;
- (b) the applicant is advised to engage an Authorised Person to ensure

that any alterations and additions/change in use are implemented in compliance with the Buildings Ordinance (BO);

- (c) 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 section 41 of the BO, or fall within minor works under the Building (Minor Works) Regulation;
- (d) detailed comments under the BO would be provided at the building plan submission stage; and
- (e) attention of the applicant should be drawn that “no objection” to the application should not be constructed as an acceptance of any unauthorised building works (UBW) on the Premises under the BO. Enforcement action may be taken by the Building Authority to effect their removal in accordance with the BD’s enforcement policy against UBW as and when necessary.

### **Fire Safety**

#### 9.1.3 Comments of the Director of Fire Services (D of FS):

- (a) no objection to the application subject to:
  - (i) fire service installations and equipment being provided to the satisfaction of his Department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans;
  - (ii) the fast food shop to be licensed as “food factory” or “factory canteen”; and
- (b) the applicant’s attention should be drawn to the “Guidance note on compliance with planning condition on provision of fire safety measures for commercial uses in industrial premises” and submit relevant documents to the Board if the application is approved.

### **Traffic**

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

- (a) no in-principle objection to the applications at nil provisions of carparking and loading/unloading spaces given that the small and constrained site layout, conveniently located to mass transport/public transport services and small scale of developments; and
- (b) the applicant’s attention should be drawn that C for T has the rights to impose, alter or cancel any carparking, 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.

**Other Aspect**

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

- (a) no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should arrange its disposal properly at their own expenses;
- (b) proper licence/permit shall be obtained from the Food and Environmental Hygiene Department (FEHD) if there is any food business regulated by DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public;
- (c) under the Food Business Regulation, Cap. 132X, a Food Factory Licence must be obtained from FEHD for food business which involves the preparation of food for sale for human consumption off the premises before commencement of such business; and
- (d) the application for Food Factory Licence, if acceptable by FEHD, will be referred to relevant government departments, such as LandsD and the Planning Department for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements.

9.2 The following Government 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) District Officer (Sham Shui Po), Home Affairs Department (DO(SSP), HAD).

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

During the three-week statutory public inspection period, 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 Counter)’ use at the Premises, which is currently used as fast food counter without valid planning permission. The planning intention of 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 applied use at the Premises is considered generally in line with the planning intention of the “OU(B)” zone.
- 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 applied use is considered compatible with the changing land use character of the area. Moreover, the applied use is considered not incompatible with other uses of the same industrial building which mainly comprises industrial-related offices/trading firms on the upper floors.
- 11.3 The applied 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 and infrastructural impacts on the developments within the subject industrial building and the adjacent areas. Relevant Government departments including D of FS, C for T, CBS/K of BD, CE/C of WSD and CE/MS of DSD have no comment on/no objection to the application.
- 11.4 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 on 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.
- 11.5 An application for temporary ‘Shop and Services’ use for a period of four years on the G/F of the subject industrial building was approved with conditions on a temporary basis by the Committee on 16.12.2011 (**Plan A-2a**). The planning permission was expired on 16.12.2015. There is no change in planning circumstances and the approval of the application is consistent with the previous decision of the Committee on the similar application.
- 11.6 There is no public comment received on the application.

## **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 Counter)’ 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 the proposal for fire safety measures 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 26.12.2020; 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 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**

<b>Appendix I</b>	Application form received on 6.5.2020
<b>Appendix II</b>	Advisory Clauses
<b>Drawing A-1</b>	Floor Plan
<b>Drawing A-2</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-2a</b>	Ground Floor Plan of Lai Cheong Factory Building
<b>Plans A-3 and A-4</b>	Site Photos

**PLANNING DEPARTMENT  
JUNE 2020**