

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/ST/955

<u>Applicant</u>	:	Ho Wun Cars Company Limited
<u>Premises</u>	:	G/F (Portion), Power Industrial Building, 9-15 Wo Heung Street, Fo Tan, Sha Tin, New Territories
<u>Floor Area</u>	:	100m ² (about)
<u>Lease</u>	:	(a) STTL No. 10 (New Grant No. 11060) (b) restricted to industrial and/or godown purposes
<u>Plan</u>	:	Draft Sha Tin Outline Zoning Plan (OZP) No. S/ST/33 at the time of submission Approved Sha Tin OZP No. S/ST/34 currently in force
<u>Zoning</u>	:	“Industrial” (“I”)
<u>Application</u>	:	Shop and Services (Retail Shop)

1. The Proposal

- 1.1 The applicant sought planning permission to use the application premises (the Premises) for ‘Shop and Services (Retail Shop)’ use. According to the Notes of the OZP, ‘Shop and Services (not elsewhere specified) (ground floor only, except in wholesale conversion of an existing building and Ancillary Showroom which may be permitted on any floor)¹’ use in “I” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises, with a floor area of about 100m², is located on the ground floor of Power Industrial Building abutting Wo Shing Street. It is the subject of a previous application (No. A/ST/915) submitted by the same applicant for the same use approved with conditions by the Rural and New Town Planning Committee (the Committee) in 2017 on a temporary basis for a period of three years. The planning permission was revoked on 17.3.2018 due to non-compliance with approval conditions on the fire safety measures. The subject retail shop is currently operating without valid planning permission.

¹ ‘Shop and Services (Motor-vehicle Showroom on ground floor, Service Trades only)’ is always permitted in the “I” zone.

- 1.3 The floor plan and layout plan of the Premises submitted by the applicant are shown in **Drawings A-1 to A-2**.
- 1.4 In support of the application, the applicant submitted the following documents:
 - (a) Application form and attachment received on 27.4.2018 (**Appendix I**)
 - (b) Further information (FI) received on 4.7.2018 (**Appendix Ia**)
- 1.5 The application was originally scheduled for consideration by the Committee on 15.6.2018. Upon request by the applicant, the Committee agreed to defer a decision on the application for two months on 15.6.2018. On 4.7.2018, the applicant submitted FI providing relevant documents for the implementation of fire services installations (**Appendix Ia**). The application is re-scheduled for consideration by the Committee on 3.8.2018.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 and the attachment of the application form at **Appendix I**. They can be summarized as follows:

- (a) the application is to facilitate business development by using the Premises for selling motorcycles and related products. The previous application was submitted in 2017;
- (b) since additional time was taken to purchase the fire dampers and to liaise with the owner of the Premises on the lease contract, the work progress related to the approval condition of the previous application was delayed; and
- (c) the implementation of fire safety installations has been completed in accordance with the endorsed fire installations proposal in April 2018. The Certificates of Fire Service Installations and Equipment have been submitted as part of this application.

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

The applicant is not a “current land owner” 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. 31) by giving notification to the current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The ‘Town Planning Board Guidelines for Use/Development within “Industrial” Zone’ (TPB PG-No. 25D), which was revised and promulgated in September 2007, is relevant to this application. For a proposed commercial use in an industrial building, relevant planning assessment criteria are summarized as follows:

- (a) it should be demonstrated that there is a genuine need for the proposed use under application and no suitable alternative accommodation can be found in the vicinity. The location and scale of the proposed use should be justified on operational grounds;
- (b) there should be an adequate provision of parking and loading/unloading facilities within the site in accordance with the Hong Kong Planning Standards and Guidelines and to the satisfaction of the Transport Department. The inclusion and operation of the proposed commercial use should not adversely affect the traffic conditions in the local road network; and
- (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 building with and without sprinkler systems should as a general principle not exceeding 460m² and 230m² respectively. The limits on aggregate 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 building. These uses include bank, fast food counter (sited at street level without seating accommodation and licensed as food factory), electrical shop, local provisions store and showroom in connection with the main industrial use. Moreover, the 230m²/460m² criteria do not apply to cases involving conversion of the low zone of an existing industrial building for commercial uses if the commercial portion is completely separated from the industrial portion on the upper floors by a buffer floor of non-hazardous occupancy such as a car-parking floor. In all cases, separate means of escape should be available for the commercial portion.

5. Previous Applications

The Premises is the subject of two previous applications (No. A/ST/814 and A/ST/915) submitted by the same applicant for 'Shop and Services (Retail Shop)' use (**Plan A-2** and **Appendix II**). The applications were approved with conditions by the Committee in 2013 and 2017 respectively on a temporary basis of three years on the consideration that the use was not incompatible with the industrial-related uses in the vicinity and complied with TPB PG-No. 25D. The planning permissions of both applications were revoked on 5.10.2013 and 17.3.2018 respectively as the approval conditions on submission and implementation of fire safety measures had not been complied with.

6. Similar Applications

- 6.1 There is no similar application for commercial use on the ground floor of the subject industrial building. Should the Committee approve the current application, the total approved commercial floor area will be 100m², which is within the maximum permissible limit of 460m² on G/F of an industrial building (with sprinkler system) according to TPB PG-No. 25D.
- 6.2 There are six similar applications for commercial uses on the ground floor of the adjacent industrial buildings (i.e. Wah Wai Industrial Building and Hopeful Factory Centre) (**Plan A-2** and **Appendix III**). All applications were approved with conditions by the Committee on the consideration that the applications were

not incompatible with the industrial-related uses in the surrounding developments; generally complied with TPB PG-No. 25D and Director of Fire Services (D of FS) had no objection to the applications from fire safety point of view.

7. The Premises and its Surrounding Areas (Plans A-1 to A-4)

7.1 The Premises is:

- (a) located on G/F of Power Industrial Building in Fo Tan Industrial Area; and
- (b) with direct access to Wo Shing Street.

7.2 The subject industrial building is:

- (a) 14 storeys in height bounded by Wo Shing Street and Wo Heung Street. Car parking and loading/unloading spaces are provided on ground floor of the building with vehicular access from Wo Shing Street; and
- (b) currently occupied by the following uses on various floors:

Floor	Current Uses
G/F (Plan A-3)	Application premises , motorcycle repair workshop*, car park and locked premises
1/F-13/F	Offices, godowns and locked premises

*The premises is operated by the same applicant of this application

7.3 The surrounding areas have the following characteristics:

- (a) Fo Tan is an established industrial area with high-rise industrial buildings;
- (b) MTR Fo Tan Station is located about 130m from the subject industrial building; and
- (c) a centrally located commercial centre (Shatin Galleria) is about 400m from the Premises. Shatin Galleria is zoned “Commercial” (“C”) on the Sha Tin OZP (Plan A-1) and is the only “C” zone in the vicinity.

8. Planning Intention

The “I” zone of Fo Tan is intended primarily for general industrial uses to ensure an adequate supply of industrial floor space to meet demand from production-oriented industries. Information technology and telecommunications industries and office related to industrial use are also always permitted in this zone.

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/Shu Tin, Lands Department (DLO/ST, LandsD):

- (a) the Premises is situated on Sha Tin Town Lot No. 10 and is governed under New Grant No. 11060 (“the New Grant”). Under the New Grant, the lots shall not be used for any purpose other than industrial or godown purposes or both excluding any trade that is now or may hereafter be declared to be an offensive trade under the Public Health and Urban Services Ordinance. No building or buildings shall be erected on the lots except a factory or factories or a warehouse or warehouses or both, ancillary offices and such quarters for watchmen or caretakers as considered essential by Commissioner for Labour; and
- (b) the proposal under the present application to use the Premises as ‘Shop and Services (Retail Shop)’ is not permitted under lease. If the Board approves the present application, the owner of the Premises is required to apply for a waiver from LandsD to implement this proposal. Such application, if received, will be considered by LandsD acting in its capacity as the landlord at its sole discretion and any approval given will be subject to such terms and conditions including, inter alia, payment of waiver fee and administrative fee as may be imposed by LandsD.

Building Matters

9.1.2 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) he has no objection to the application subject to that the use shall comply with the requirements under the Buildings Ordinance. For instance, the shop shall be separated from adjoining premises of industrial use by fire barriers with Fire Resistance Rating of 120 minutes, and the means of escape of the existing adjoining premises shall not be adversely affected; and
- (b) the subdivision of the unit/premises should comply with the provisions of Buildings Ordinance/Building (Minor Works) Regulations. The applicant should engage a registered building professional under Buildings Ordinance to co-ordinate the buildings works, if any; and
- (c) the applicant is advised to engage an authorised person to co-ordinate the building works, if any.

Fire Safety

9.1.3 Comments of the D of FS:

- (a) the submitted plans and documents have been examined and found satisfactory as the required fire services requirements have been incorporated on the plans for the purpose of planning application. The conditions on submission and implementation of fire service installations have been fulfilled satisfactorily;
- (b) he has no in-principle objection to the application subject to that detailed fire services requirements will be formulated upon receipt of formal submission of general building plans and means of escape separated from the industrial portion is available for the Premises;
- (c) the building is protected with a sprinkler system so that the maximum permissible aggregate commercial floor area on G/F is 460m² in accordance with TPB PG-No. 25D. The applied use should be counted up to the aggregate commercial floor area;
- (d) regarding matters in relation to fire resisting construction of the Premises, the applicant is reminded to comply with the “Code of Practice for Fire Safety in Buildings” which is administered by the Building Authority; and
- (e) the applicant should pay attention to the “Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises” if the application is approved.

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

- (a) Commissioner for Transport; and
- (b) District Officer/Shu Tin, Home Affairs Department.

10. Public Comments Received During Statutory Publication Period

On 4.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no comment was received.

11. Planning Considerations and Assessments

11.1 The planning intention of the “I” zone is to reserve land primarily for general industrial uses to ensure adequate supply of industrial floor space to meet demand from production-oriented industries. However, commercial uses in industrial buildings within the “I” zone may be permitted on application to the Board based on individual merits and the planning assessment criteria set out in the TPB PG-No. 25D.

- 11.2 The Premises is located on the ground floor of an existing industrial building with direct access to Wo Shing Street. The 'Shop and Services (Retail Shop)' use under application is considered not incompatible with the industrial and industrial-related uses in the subject industrial building and the surrounding developments. Similar applications for 'Shop and Services' use have previously been approved on the ground floor of the adjacent industrial buildings (**Plan A-2** and **Appendix III**).
- 11.3 The subject industrial building is subject to a maximum permissible limit of 460m² for aggregate commercial floor area on the ground floor. Currently there is no valid approved application for commercial uses on the ground floor of the subject building. The aggregate commercial floor area will be 100m² if the floor area of the Premises is included, which is within the maximum permissible limit of 460m².
- 11.4 The 'Shop and Services (Retail Shop)' use under application generally complies with the relevant considerations set out in the TPB PG-No. 25D including the fire safety and traffic aspects. Relevant Government departments including FSD, BD and TD have no objection to or no adverse comment on the application.
- 11.5 The previous applications (Nos. A/ST/814 and A/ST/915) submitted by the same applicant for the same use were revoked on 5.10.2013 and 17.3.2018 respectively due to non-compliance with approval conditions on fire service installations. In this connection, the applicant has completed the implementation of fire services installations. Relevant plans and documents demonstrating compliance with the fire services requirement were submitted to support the application (**Appendices I and Ia**). According to D of FS, the implementation of fire service installations submitted by the applicant is considered acceptable and the conditions on the submission and implementation of fire service installations have been fulfilled satisfactorily. There is no change in planning circumstances since the approval of the previous application.
- 11.6 A temporary approval of three years is recommended in order not to jeopardise the long term planning intention of industrial use for the Premises and to allow the Committee to monitor the supply and demand of industrial floor space in the area.
- 11.7 No public comment was received during the statutory public inspection period.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 above, the Planning Department has no objection to the application on a temporary basis for a period of three years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of three years until 3.8.2021.
- 12.3 The recommended advisory clauses suggested for Members' reference are attached at **Appendix IV**.

12.4 Alternatively, should the Committee decide to reject the application, the following reasons for rejection is suggested for members' reference:

- (a) the use is not in line with the planning intention of the "I" zone, which is intended primarily for general industrial uses to ensure an adequate supply of industrial floor space to meet demand from production-oriented industries. There is no strong justification given in the submission for a departure from the planning intention; and
- (b) the applicant fails to comply with the approval condition related to the implementation of fire safety aspect resulting in the revocation of the planning permission under the previous applications. Hence, sympathetic consideration will not be given to any further 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 advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

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 received on 27.4.2018
Appendix Ia	Further information received on 4.7.2018
Appendix II	Previous applications at the Premises
Appendix III	Similar applications for 'Shop and Services' uses at G/F of adjacent industrial buildings
Appendix IV	Recommended Advisory clauses
Drawing A-1	Floor Plan
Drawing A-2	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Ground Floor Plan
Plan A-4	Site Photos