

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/H25/20

- Applicant** : The Automall Limited represented by Kenneth To & Associates Limited
- Premises** : Part of Basement Level B1 of the Car Park Complex, Hong Kong Convention and Exhibition Centre (HKCEC) (Phase 1), 1 Harbour Road, Wan Chai, Hong Kong
- Total Floor Area** : About 4,074m²
- Lease** : Inland Lot (I.L.) 8593 governed by the Conditions of Grant No. 11784 dated 28.2.1985 for a term of 75 years commencing on 19.2.1985 as varied and modified by a Modification Letter dated 8.6.1990
- (a) SC No. (10)(a): 1,070 car parking spaces shall be provided within the lot of which 670 car parking spaces shall be made available for short-term parking
- (b) temporary waiver for the purpose of display and sale of motor vehicles only (excluding the use as a trade fair or an exhibition centre or a general exhibition hall for the display of any vehicle of a special nature) and not exceeding 276 motor vehicles to be parked at the waiver area is granted on quarterly basis
- Plan** : Approved Wan Chai North Outline Zoning Plan (OZP) No. S/H25/4
- Zoning** : “Open Space” (“O”)
- Application** : Temporary Shop and Services (Motor-vehicle Showroom) for a period of five years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary motor-vehicle showroom, which is regarded as ‘Shop and Services’ use, at part of the Basement Level B1 of the Car Park Complex, HKCEC (Phase 1) (the Premises) for a period of five years. The Premises falls within an area zoned “O” on the approved Wan Chai

North OZP No. S/H25/4 (**Plan A-1**). According to the Notes of the OZP for the subject “O” zone, ‘Shop and Services’ requires planning permission from the Town Planning Board (the Board). Whilst temporary uses expected to be five years or less of any land or buildings are permitted in all zones as long as they comply with other government requirements, it is the Board’s practice to treat temporary uses in permanent buildings as permanent uses. As such, the proposed temporary motor-vehicle showroom requires planning permission from the Board under section 16 of the Town Planning Ordinance (the Ordinance).

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

- (a) Applicant’s letter and application form received on **(Appendix I)** 19.5.2020
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Applicant’s email dated 22.6.2020 providing **(Appendix Ib)** clarification on maximum number of visitors

1.3 The Premises is the subject of eight previous s.16 applications for a temporary motor-vehicle showroom use by the same applicant, and seven of which were approved from 2003 to 2018 (details are provided in paragraph 4 below). The last planning permission (under Application No. A/H25/19) will lapse on 20.7.2020. The current application is to continue the use of the Premises for a temporary motor-vehicle showroom by the same applicant for a period of five years.

1.4 The floor plan showing the layout of the Premises submitted by the applicant is provided in **Drawing A-1**. As compared with the last application, the scale of the temporary motor-vehicle showroom has been reduced. However, the existing sales office which is demarcated from the car display area with a separate corridor with Y-Tong Block Wall (4-hour fire resistance period) as means of escape (MoE), existing enhanced fire services installations (FSIs) such as smoke detection system, fast response sprinkler system, public announcement system and existing mechanical monitoring system for controlling the number of visitors will remain unchanged (**Drawing A-2** and **Plan A-4**). A summary of the changes is indicated below:

	Last Application (A/H25/19)	Current Application (A/H25/20)	Difference
Floor area	6,207.6m ²	4,074m ²	-2,133.6m ² (-34.4%)
No. of affected car parking spaces	252	195	-57 (-22.6%)
Maximum no. of cars to be parked in the Display Area	276	184	-92 (-33.3%)
Maximum no. of visitors in the Display Area	300	300	0

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in section 4 of the planning statement at **Appendix Ia**. The main justifications are summarised as follows:

No Change in Planning Circumstances

- (a) there is no change in the planning circumstances in the Wan Chai North area since the approval of the last planning permission (under Application No. A/H25/19) with no change in land uses of the surrounding areas. Although Wan Chai Government Offices Compound will be relocated by phases and used for the development of convention and exhibition venue, hotel facilities and Grade A office spaces, the land sale of the site will probably take place beyond 2026 after the expiry of the current planning permission in 2025. It is consistent with the Board's previous decision.

Efforts Put in by the Applicant to Meet the Fire Safety Requirements

- (b) the applicant has put tremendous efforts in complying with the approval conditions in order to meet the fire safety requirements for the Premises, including installation of mechanical monitoring system on number of visitors and the provision of enhanced FSIs e.g. smoke detection system, public announcement system, CCTV and fast response sprinkler. Bi-monthly audit reports have been submitted in the approval periods and no exceedance of permitted number of visitors inside the showroom has ever been recorded. Should the current application be approved, the applicant will continue to submit the bi-monthly audit report for monitoring the number of visitors within the Premises.

No Adverse Impact on Provision of Car Parking Spaces in Wan Chai North Area

- (c) According to the Parking Demand Study (PDS) (Appendix 3 of **Appendix Ia**), there are vacant parking spaces at HKCEC (Phase 1) Car Park from July 2018 to June 2019 during mega exhibitions when the temporary motor-vehicle showroom at the Premises was in operation. In the current application, a total of 57 carparking spaces would be released for public parking as compared with the previous application. It is envisaged that there would be a surplus vacant parking spaces during major exhibitions.
- (d) According to the Second Parking Demand Study commissioned by the Transport Department, there are around 8,700 numbers of surplus "usage-related" private car parking spaces in Wan Chai District for year 2011. Taking into account the growth trend of demand and no major changes in the planning circumstances in the Wan Chai district, it is reasonable to assume that the current parking condition would remain similar to the year 2025 situation. Hence, the impact of the extension of the temporary motor-vehicle showroom for five years is considered insignificant on the parking condition in the area.

Suitability of the Proposed Use at the Premises

- (e) The proposed temporary motor-vehicle showroom at the Premises has been in operation by the same operator since 2003. It is considered a compatible and suitable use. Over the past 17 years, the services provided are well received by the public and the showroom has been continuing to offer employment opportunities and support the second-hand car sale business in Hong Kong.

No Adverse Traffic Impact on the Surrounding Road Network

- (f) As most of the vehicles within the Premises are for display and will not move in and out frequently, there will not be any adverse traffic impact on the surrounding road network. The application is considered acceptable on traffic ground.

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 sending notification letter to the owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Applications

4.1 The Premises is the subject of eight previous s.16 applications (No. A/H25/2, A/H25/6, A/H25/9, A/H25/10, A/H25/12, A/H25/14, A/H25/18 and A/H25/19) for temporary exhibition hall for motor vehicles or temporary motor-vehicle showroom since 2003. All the previous applications were approved with conditions by the Committee/the Board, except Application No. A/H25/9 which was rejected by the Committee due to insufficient information in the submission to demonstrate the provision of FSIs. Details of the previous applications are set out in **Appendix II**.

4.2 Among the applications approved, a shorter term of the temporary planning permission of two years, instead of the 3 or 5 years applied by the applicant, was granted since 2009 for reasons of monitoring the operation of the subject temporary exhibition hall for motor vehicles at the Premises (No. A/H25/10), monitoring the possible changes in the future demand for car parking spaces in the area (No. A/H25/12 and A/H25/19) and controlling the supply of and demand for car parking spaces at HKCEC and its vicinity (No. A/H25/14 and A/H25/18).

5. Similar Applications

There is no similar application for ‘Shop and Services (Motor-vehicle Showroom)’ use within “O” zone within the Wan Chai North Planning Scheme Area.

6. The Site and Its Surrounding Areas (Plans A-1 to A-4)

6.1 The Premises is:

- (a) located at the lowest level of the 3-storey car park cum public open space complex west of the Grand Hyatt Hotel (and the HKCEC complex);
- (b) currently used as a temporary showroom for second-hand motor vehicles with a sales office demarcated from the car display area and provided with a corridor for means of escape; and
- (c) is accessible by vehicles via the existing car park entrances at Harbour Road and Convention Avenue. Pedestrians can access the Premises via lift at ground floor entrance at Harbour Road.

6.2 The surrounding areas have the following characteristics:

- (a) to the east and northeast of the Premises are the Hong Kong Grand Hyatt Hotel, Convention Plaza (serviced apartment), HKCEC and HKCEC New Wing;
- (b) to the further east is the Exhibition (EXH) Station of Shatin to Central Link (SCL) under construction;
- (c) to the south across Harbour Road are Government, Institution or Community (G/IC) facilities, including Hong Kong Academy for Performing Arts, Hong Kong Arts Centre and Wan Chai Government Complex, and commercial developments like Shui On Centre, Telecom House and The Harbourview (hotel); and
- (d) to the west across Convention Avenue are a public open space and ventilation shafts, whereas to the north is the reclamation area of Wan Chai Development Phase II.

7. Planning Intention

The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

8. Comments from Relevant Government Departments

8.1 The following government departments have been consulted and their views on the application are summarised as follows:

Land Administration

8.1.1 Comments of the District Lands Officer/Hong Kong East, Lands Department (DLO/HKE, LandsD):

- (a) the Premises falls within I.L. 8593 which is held under the Conditions of Grant No. UB11784 as varied or modified by a Modification Letter dated 8.6.1990 (“the Conditions”). Under Special Condition No. (10)(a) of the Conditions, 1,070 car parking spaces shall be provided within the lot of which 670 car parking spaces shall be made available for short term public parking;
- (b) a temporary waiver has been issued on 31.12.2014 to permit the waived area for the purpose of display and sale of motor vehicles only (excluding the use as a trade fair or an exhibition centre or a general exhibition hall for the display of any vehicle of a special nature) and not exceeding 345 motor vehicles to be parked at the waiver area. The temporary waiver is currently on quarterly basis. To tally with the planning application No. A/H25/19 approved on 20.7.2018, a supplementary waiver agreement dated 30.12.2019 was made to amend the waived area (i.e. from 8,200m² to 6,161m²) and the number of motor vehicles to be parked at the waived area (i.e. from 345 to 276);
- (c) the application has proposed to reduce the scale of the temporary motor-vehicle showroom to meet the demand for public parking in the Wan Chai North area. According to the planning statement, the area for temporary motor-vehicle showroom would be reduced to 4,074m² and the maximum number of parking spaces for car display in the Premises would be reduced to 184. Such proposal does not tally with the waiver area of 6,161m² and 276 motor vehicles to be parked within the waiver area. Also, the proposed waiver boundary should tally with the Premises’ boundary to include the pedestrian circulation area and entrance lift lobby which are serving the Premises; and
- (d) if planning permission from the Board is given, the applicant is required to apply to this office to amend/ vary the terms and conditions of the temporary waiver, including but not limited to the waiver area, boundary alignment and number of cars to be parked at the waiver area. However, there is no guarantee that such application will be approved and if approved by LandsD, acting in its capacity as the landlord at its discretion, it will be subject to such terms and conditions, including payment of appropriate fees, as imposed by LandsD.

Building Matters

8.1.2 Comments of the Chief Building Surveyor/Hong Kong East & Heritage Section, Buildings Department (CBS/HKE&H, BD):

He has no adverse comment under the Buildings Ordinance (BO) on the planning application. For the purpose of monitoring the mode of operation as proposed by the applicant, he has no objection in principle to impose the conditions regarding the maximum number of visitors permitted, employment of an independent professional to monitor the mechanical monitoring system and an Authorised Person to conduct bi-monthly audit checks on the monitoring system as well as submission of bi-monthly audit reports which were imposed in the previous permission (No. A/H25/19).

Fire Safety

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

He has no objection subject to fire service installations and water supplies for firefighting being provided to the satisfaction of his department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans.

Traffic Aspect

8.1.4 Comments of the Secretary for Commerce and Economic Development (SCED):

- (a) as far as we understand, from time to time when major events were being held in HKCEC, there were vehicles queuing outside HKCEC; and the conversion of a portion of the basement car park into a motor-vehicle showroom will reduce the number of parking spaces available to HKCEC visitors; and
- (b) if the application is approved by the Board, the period of approval should be limited to two years given that parking demand may change with the passage of time and the on-going developments around the Premises.

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

- (a) he has no comments on the application and no adverse comments on SCED's proposal of limiting the approval period to two years (instead of five years in the application); and
- (b) the parking requirements for HKCEC should be timely reviewed in view of the impact of the future developments, e.g. the SCL EXH Station and redevelopment of Wan Chai Government Offices.

Environmental Aspect

8.1.6 Comments of the Director of Environmental Protection (DEP):

- (a) it is noted that the current application is similar to the previous applications. As such, his previous view remains valid, i.e. no

objection to the application from environmental planning perspective and no approval condition is required to be imposed in the permission; and

- (b) for air quality aspect, the applicant is advised on the following:
 - (i) to switch on vehicle engines only when necessary and switch off the engines immediate after use to minimise air pollutants in the proposed showroom;
 - (ii) to make reference to and comply with the Motor Vehicle Idling (Fixed Penalty) Ordinance (Cap. 611); and
 - (iii) to make reference to the Practice Note on “Control of Air Pollution in Car Park” (ProPECC No. 2/96) which provides information on the air quality standards in car park.

District Officer’s Comments

8.1.7 Comments of the District Officer (Wan Chai), Home Affairs Department (DO(WC), HAD):

He has no specific comment on the application and has not received any comments from members of the public.

8.2 The following government departments have no comment on the application:

- (a) Secretary for Development (Harbour Unit);
- (b) Chief Highway Engineer/Hong Kong, Highways Department; and
- (c) Commissioner of Police.

9. Public Comments Received During Statutory Publication Period

9.1 On 26.5.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 16.6.2020, four comments from the members of the public were received (**Appendix III**). All commenters object to the application and their major grounds are summarised as follows:

- (a) the application is not in line with the planning intention of the Premises nor the traffic needs of the Wan Chai North area. The temporary motor-vehicle showroom is not a compatible use of the HKCEC. It can be relocated to other vacated showrooms and shops in the territory;
- (b) car parking demand in the district is very high. The temporary motor-vehicle showroom creates a shortfall in car parking spaces provision which led to additional traffic flow circulating around the nearby areas. It results in traffic congestion, illegal road-side parking and idling vehicles, thereby causing adverse traffic conditions and air pollution, and affecting

the operation of bus routes, especially when the carpark is full during major events at HKCEC;

- (c) the spaces serve not only the HKCEC but also the apartments at Convention Plaza. TD shall advise the number of parking spaces required;
- (d) a significant number of car parking spaces appear to be used for long time parking. It seems they are related to the Automall Limited. It is not appropriate that public parking intended to serve the exhibition centre is to be used for vehicle storage;
- (e) the Parking Demand Study has not taken into account the future developments (e.g. the opening of Central/Wan Chai Bypass and the SCL) which will bring additional traffic to the area. Extra pedestrian and traffic flow in the area is expected upon the opening of SCL in 2022; and
- (f) the Premises should be converted to community or recreational uses if there is no genuine need for parking. Also, the parking spaces shall be moved down one floor below ground so as to leave the ground floor free for community use with connection to the public garden on the roof.

10. Planning Considerations and Assessment

- 10.1 The application is to seek planning permission for continuing the use of the Premises for a motor-vehicle showroom for a period of five years. The Premises falls within the “O” zone, which is intended primarily for provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. The proposed temporary motor-vehicle showroom is not in line with the planning intention of the “O” zone. However, while the aboveground area of the subject “O” zone was developed as a public open space, the space underneath had been developed as a 3-storey car park (with two basement levels) to meet the car parking requirement of HKCEC. The proposed temporary motor-vehicle showroom, which has been in operation within Basement Level B1 of the underground car park since 2003, would not affect the public open space on top of the car park and is thus considered not unacceptable from land use point of view.
- 10.2 As mentioned in paragraph 4 above, the Premises was involved in the seven previous applications for the temporary motor-vehicles showroom/exhibition hall for motor vehicles which were approved with conditions by the Committee/the Board since 2003. As compared with the last planning application (which involved 252 parking spaces out of the total 1,070 parking spaces in HKCEC (Phase 1) car park), the applicant proposes to reduce the scale of the temporary motor-vehicles showroom (i.e. occupying only 195 parking spaces) so as to make available 57 car parking spaces in HKCEC (Phase 1) car park for the public.
- 10.3 The PDS submitted by the applicant has reviewed the latest car parking condition of the HKCEC (Phase 1) car park. The findings of the PDS have

revealed that the HKCEC (Phase 1) car park still has adequate parking spaces during major events of HKCEC even with the proposed temporary motor-vehicles showroom. The PDS has also assessed that there will be sufficient private car parking provision in Wan Chai up to 2025. In addition, as the motor vehicles at the Premises are for display and will not move in and out frequently, the proposed showroom would not induce major adverse traffic impact on the vicinity. Whilst SCED advises that the conversion of basement car park into a motor-vehicle showroom will reduce the number of parking spaces available to HKCEC visitors, the PDS submitted by the applicant has revealed that illegal parking and vehicle waiting outside the HKCEC (Phase 1) car park are not related to whether the HKCEC (Phase 1) car park was fully occupied or not. While C for T has no comment on the findings of the PDS, she is of the view that the parking requirements for HKCEC should be timely reviewed in view of the impact of the future developments, e.g. the future SCL EXH Station and redevelopment of Wan Chai Government Offices for convention and exhibition facilities. SCED has also proposed to grant a shorter approval period (i.e. two years) of the planning permission, given that the parking demand may change with the passage of time and the on-going developments around the Premises. To address their concerns, it is recommended that the approval period shall be limited to not more than two years, should the application be approved by the Committee. The decision to shorten the approval period is also consistent with the planning approval granted by the Committee/the Board for the Premises since 2009.

- 10.4 On the safety aspect, the applicant has carried out measures to meet fire safety requirements, including demarcation of a sales office from the car display area, provision of a corridor to meet MoE requirements, installation of mechanical monitoring system for controlling the number of visitors and enhanced FSIs (such as smoke detection system, public announcement system, CCTV and fast response sprinkler) (**Drawing A-2 and Plan A-4**). These measures are required under the approval conditions of the last application and have been satisfactorily discharged. CBS/HKE&H, BD and D of FS have no objection to/no comment on the application. However, as recommended by CBS/HKE&H, BD and D of FS, relevant approval conditions will be imposed to enforce and monitor the provision of FSIs and the implementation of the measures to meet fire safety requirements if the application is approved by the Committee. To address the possible air quality concerns within the Premises, as requested by DEP, an advisory clause is recommended to remind the applicant to take note of the relevant Ordinance and practice note in relation to control of idling motor vehicle and air pollution in car park.
- 10.5 As for the public concerns on the planning intention of the Premises, car parking space provision at HKCEC, air quality, adverse traffic impacts including traffic congestion and illegal parking on the adjacent road network and traffic impact due to the future developments in the area, views from relevant government departments in paragraph 8.1 above and the planning assessments in paragraphs 10.1 to 10.4 above are relevant. Regarding the proposed alternative use of the Premises, given its underground location, it is considered that the Premises shall be retained as a public car park to serve the area.

11. Planning Department's Views

- 11.1 Based on the assessment made in paragraph 10 above and having taken into account the public comments mentioned in paragraph 9 above, the Planning Department has no objection to the application.
- 11.2 Should the Committee decide to approve the application on a temporary basis, a shorter period of two years until 10.7.2022 instead of five years sought is recommended. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval conditions

- (a) no motor shows or car fairs or any related events should be undertaken at the application premises;
- (b) the number of cars to be parked at the car parking area of the application premises shall not exceed 184 at any time;
- (c) the number of visitors allowed at the car parking area of the application premises shall not exceed 300 at any time;
- (d) to employ an independent professional to monitor the mechanical monitoring system to control the number of visitors to the car parking area of the application premises and prepare monitoring reports on a monthly basis;
- (e) to employ an Authorised Person to conduct audit checks on the monitoring system and the monitoring reports on the number of visitors to the car parking area of the application premises on a bi-monthly basis;
- (f) in relation to (e) above, to submit the audit reports every two months highlighting any non-compliance on the number of visitors to the car parking area of the application premises to the satisfaction of the Director of Buildings or of the Town Planning Board;
- (g) the provision of fire service installations within three months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by 10.10.2020;
- (h) if any of the above planning conditions (a) to (f) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (i) if the above planning condition (g) 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 IV**.

- 11.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the applicant fails to demonstrate that with the proposed conversion of public car parking space for the temporary motor-vehicle showroom at the application premises, sufficient public car parking spaces will still be available to meet the car parking demand in the area.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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 period of which the permission should be valid on a temporary basis.
- 12.3 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.

13. Attachments

Appendix I	Applicant's letter and application form received on 19.5.2020
Appendix Ia	Supplementary Planning Statement
Appendix Ib	Applicant's email dated 22.6.2020 providing clarification
Appendix II	A summary of the details of the previous applications
Appendix III	Public Comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Layout Plan showing the Sales Offices, Locations of Fire Exit & Fire Escape Route
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3 to 4	Site Photos