

MPC Paper No. A/K13/314
For Consideration by
the Metro Planning Committee
on 1.11.2019

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K13/314

- Applicant** : Win Standard International Limited represented by Z Design Limited
- Premises** : Portion of Unit 8A (8A1, 8A2, 8A3, 8A4, 8A5A, 8A5B and 8A6 only), G/F, Kowloon Bay Industrial Centre, 15 Wang Hoi Road, Kowloon Bay, Kowloon
- Total Floor Area of Premises** : About 80m²
- Lease** : (a) New Kowloon Inland Lot (NKIL) 5833
(b) Restricted to industrial and/or godown (excluding offensive trades) purposes
- Plan** : Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan (OZP) No. S/K13/29
- Zoning** : “Other Specified Uses” annotated “Business” (“OU(B)”) [subject to a maximum plot ratio (PR) of 12.0 and a maximum building height of 120 metres above Principal Datum, or the PR and the height of the existing building(s), whichever is the greater]
- Application** : Proposed Shop and Services

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Shop and Services’ use. The Premises occupies portion of Unit 8A on the G/F of an existing industrial building, namely Kowloon Bay Industrial Centre, at 15 Wang Hoi Road, Kowloon Bay. The building falls within an area zoned “OU(B)” on the draft Ngau Tau Kok and Kowloon Bay OZP No. S/K13/29 (**Plan A-1**). According to Schedule II of the Notes of the OZP for the “OU(B)” zone, ‘Shop and Services (not elsewhere specified)’ on the G/F of an industrial or industrial-office (I-O) building is a Column 2 use which requires planning permission from the Town Planning Board (the Board).

- 1.2 The Premises is the subject of two previous planning applications (Nos. A/K13/194 and A/K13/228) (**Plan A-3**) for ‘Shop and Services (Retail Shop and Real Estate Agency)’ use submitted by a different applicant. The latter application was approved with conditions by the Metro Planning Committee (the Committee) of the Board on 2.11.2007. All approval conditions have been satisfactorily complied with and the planning permission is still valid. The Premises under the current application overlaps with part of the premises of the approved application No. A/K13/228. The current application is to apply for general ‘Shop and Services’ use not confining to specific shop types.
- 1.3 In support of the application, the applicant has submitted an application form (**Appendix I**) which was received by the Board on 12.9.2019.
- 1.4 Plans showing the layout of the G/F of the subject building and the Premises are at **Drawings A-1 to A-2**.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are set out in **Appendix I**. They are summarized as follows:

- (a) The proposed ‘Shop and Services’ use is in line with the planning intention of “OU(B)” zone for general business uses.
- (b) There is a need from the market to provide shop and services, but not limited to retail shop and real estate agency, to the neighbours.
- (c) The Premises with convenient location is suitable for shop and services use.
- (d) No adverse environmental impact is anticipated.
- (e) The Premises has direct frontage to Wang Tai Road. The means of escape would be completely separated from the industrial portion.

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

The applicant is the sole “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 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 G/F of an existing industrial/I-O building with and without sprinkler systems should not exceed 460m² and 230m² respectively. For any application which would result in a slight exceedance of the relevant floor area limit, the applicant has to demonstrate that the fire safety concern can be satisfactorily addressed, and each case will be considered by the Board on its own merit. 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. In all cases, separate means of escape should be available for the commercial portion; 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

The Premises is the subject of two previous planning applications (Nos. A/K13/194 and A/K13/228) (**Plan A-3**) both for 'Shop and Services (Retail Shop and Real Estate Agency)' use submitted by a different applicant. The former was approved with conditions by the Committee on 18.3.2005 for a temporary period of 3 years. The latter was approved on a permanent basis with conditions by the Committee on 2.11.2007 and all approval conditions have been satisfactorily complied with.

6. Similar Applications

6.1 The Committee has considered 33 planning applications (including the two previous applications mentioned in paragraph 5 above) for various shop and services uses on the G/F of the subject industrial building (**Plan A-3**). Whilst 27 of these applications were approved by the Committee, 6 were rejected by the Committee for fire safety reasons. The details of the similar applications are shown in the table below.

Application No.	Unit	Applied Uses	Floor Area (about)	Date of Decision	Decision
Uses applicable for maximum permissible limit of 460m² for aggregate commercial floor area on G/F of an industrial building (with sprinkler systems), in accordance with FSD's Circular Letter No. 4/96 (Part X)					
Planning applications at other premises on the G/F					
A/K13/176	1C	Shop and Services (Real Estate Agency)	16.17m ²	12.3.2004 (lapsed)	Approved
A/K13/182	1B2	Wholesale trade cum Shop and Services (Stationery)	57.86m²	16.7.2004	Approved
A/K13/183	1B1	Shop and Services (Real Estate Agency)	30.165m²	16.7.2004	Approved
A/K13/185	8B	Shop and Services (Real Estate Agency)	18.85m²	16.7.2004	Approved
A/K13/191	17	Shop and Services (Fast Food cum Retail Shop)	58.64m²	28.1.2005	Approved
A/K13/192	5 (before subdivided to 5A and 5B)	Shop and Services (Fast Food cum Retail Shop)	130.68m ²	28.1.2005 (lapsed)	Approved
A/K13/194	8A1, 8A2, 8A3, 8A4, 8A5 and 8A6	Temporary Shop and Services (Retail Shop and Real Estate Agency) for a Period of 3 Years	80m ²	18.3.2005 (lapsed)	Approved
A/K13/208	5A (Portion)	Temporary Shop and Services for a Period of 3 Years	24m ²	25.11.2005 (lapsed)	Approved
A/K13/213	5A	Temporary Shop and Services (Estate Agent Office) for a Period of 3 Years	54m ²	7.4.2006 (revoked on 7.10.2006)	Approved
A/K13/216	3 (Portion)	Shop and Services (Convenience Store)	49m ²	20.10.2006 (revoked on 20.10.2008)	Approved
A/K13/218	5A	Temporary Shop and Services (Estate Agent Office) for a Period of 3 Years	54m ²	5.1.2007 (revoked on 5.1.2008)	Approved
A/K13/221	5B (Portion)	Temporary Shop and Services (Retail Uses) for a Period of 5 Years	45.9m ²	27.7.2007 (lapsed)	Approved for 3 years
A/K13/228	8A1, 8A2, 8A3, 8A4, 8A5 and 8A6	Shop and Services (Retail Shop and Real Estate Agency)	80m²	2.11.2007	Approved
A/K13/233	5A	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	54m ²	20.6.2008 (revoked on 20.9.2008)	Approved
A/K13/236	3 (Portion)	Shop and Services	49m ²	23.1.2009 (revoked on 23.7.2009)	Approved
A/K13/251	3 (Portion)	Shop and Services	48.88m ²	29.1.2010 (revoked on 29.7.2010)	Approved

Application No.	Unit	Applied Uses	Floor Area (about)	Date of Decision	Decision
A/K13/267	4A	Shop and Services	37.5m ²	15.4.2011	Approved
A/K13/268 [^]	4B	Shop and Services	25.9m ²	15.4.2011	Approved
A/K13/288	5B (Portion)	Shop and Services	45.9m ²	7.2.2014	Approved
A/K13/303	1C	Shop and Services	15.85m ²	7.4.2017 (revoked on 7.4.2018)	Approved
A/K13/311	1C	Shop and Services	15.85m ²	16.11.2018	Approved
A/K13/312	16	Shop and Services	59.667 m ²	16.8.2019	Approved
Total floor areas of approved applications:			430.332m²*		
A/K13/186	2	Shop and Services (Fast Food Shop)	219.458m ²	16.7.2004	Rejected#
A/K13/189	17	Shop and Services (Fast Food Shop)	58.46m ²	15.10.2004	Rejected#
A/K13/207	3 (Portion)	Shop and Services (Convenience Store)	98.5m ²	25.11.2005	Rejected@
A/K13/215	3 (Portion)	Shop and Services (Convenience Store)	98.5m ²	28.4.2006	Rejected@
A/K13/227	2	Shop and Services (Retail Shop)	216.69m ²	28.9.2007	Rejected@
A/K13/229	2 (Portion)	Shop and Services	15.735m ²	9.5.2008	Rejected@
Total floor areas of rejected applications:			376.418m²		
Other applications approved by the Committee that floor area not accounted for aggregated commercial floor area in FSD's assessment					
A/K13/179	4 (Portion)	Shop and Services (Retail Shop - Electrical Products)	26.83m ²	25.6.2004	Approved
A/K13/180	6 (Portion)	Shop and Services (Retail Shop - Metalware)	14.53m ²	16.7.2004	Approved
A/K13/184	1A	Shop and Services (Retail Shop - Metalware)	95.16m ²	16.7.2004	Approved
A/K13/206	2	Shop and Services (Bank)	223m ²	11.11.2005	Approved

Rejection reasons being that the use is considered not acceptable from fire safety point of view; and that the approval would set an undesirable precedent for similar applications in the industrial buildings.

@ Rejection reasons being that the application is not acceptable from fire safety point of view.

* The total floor area of 430.332m² have excluded the floor areas in overlapping premises and approved cases of which planning permission lapsed or has been revoked.

[^] The premises of the approved application No. A/K13/268 overlaps with the premises of a previous application No. A/K13/193 for 'Shop and Services (Real Estate Agency/Retail Shop)' use which was approved by the Committee on 18.2.2005.

6.2 According to TPB PG-No. 22D, the ‘Shop and Services’ use under application is subject to the limit on aggregate commercial floor area. Should the Committee approve this application, the total approved commercial floor area on the G/F of the subject building will remain unchanged as 430.332m² (since the Premises under the current application overlaps with part of the premises of the previous application No. A/K13/228), which is within the maximum permissible limit of 460m² on G/F of an industrial or I-O building with a sprinkler system.

7. **The Premises and Its Surrounding Areas** (Drawings A-1 and A-2, Plans A-1 and A-2, and Site Photos on Plans A-4 and A-5)

7.1 The Premises:

- (a) occupies portion of Unit 8A (8A1, 8A2, 8A3, 8A4, 8A5A, 8A5B and 8A6 only) on the G/F of the subject building (**Drawings A-1 and A-2**);
- (b) is partitioned into seven units, all having their own entrances fronting Wang Tai Road or Wang Hoi Road (**Plan A-4**); and
- (c) is partly occupied by shops (i.e. Units 8A1 and 8A3 for money exchange, Unit 8A4 for real estate agency and Unit 8A6 for retail shop for printing materials) and partly vacant (i.e. Units 8A2, 8A5A and 8A5B) (**Plans A-4 and A-5**).

7.2 The subject building is:

- (a) a 11-storey industrial building with an additional basement floor for carpark use bounded by Wang Tai Road, Wang Hoi Road and Lam Fook Street;
- (b) equipped with a sprinkler system; and
- (c) the current uses by floor are summarized as follows:

G/F	Portion of Unit 8A (The Premises), office, logistic facility, canteens, warehouses/workshops, shop and services ^[1] , eating places ^[1] and vacant/locked units
1/F – 10/F	Warehouses/workshops, offices, art studios, shop and services ^[1] and party house ^[1]

^[1]There is no record of approval or valid planning permission granted for such uses at some of the units.

7.3 The surrounding areas have the following characteristics:

- (a) the locality is mainly occupied by industrial or I-O buildings, including Kingsford Industrial Centre, Hoplite Industrial Centre and Shun Fat Industrial Building to its south, west and north respectively;
- (b) to its east across Wang Hoi Road is Telford House, a commercial development with a pedestrian footbridge across Wai Yip Street connecting

to Telford Gardens and MTR Kowloon Bay Station; and

- (c) the units on the G/F of the neighbouring industrial buildings are mainly used for shop and services purposes such as banks, real estate agencies, metalware shops, florist shops and eating places while workshops and showrooms can also be found in other G/F units in the industrial buildings.

8. **Planning Intention**

The planning intention of “OU(B)” zone is primarily for general business uses. A mix of information technology and telecommunications industries, non-polluting industrial, office and other commercial uses are always permitted in new “business” buildings. Less fire hazard-prone office use that would not involve direct provision of customer services or goods to the general public is always permitted in existing industrial or I-O buildings.

9. **Comments from Relevant Government Departments**

- 9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer/Kowloon East, Lands Department (DLO/KE, LandsD):

- (a) No objection to the application.
- (b) The Premises falls within NKIL 5833 and is held under Conditions of Sale No. 11468 dated 15.1.1981, that restricts the lot to be used for the purposes of industrial and/or godown (excluding offensive trades).
- (c) The proposed shop and services use is in breach of the lease conditions. Should the planning application be approved by the Board, the applicant is required to apply to his office for a temporary waiver or a lease modification to give effect to the proposal. However, there is no guarantee that the temporary waiver or lease modification would be approved and if the application is eventually approved by LandsD in the capacity as the landlord at its discretion, it will be subject to those terms, including payment of any administration fee, waiver fee or premium as appropriate, as imposed by LandsD.
- (d) The floor area of the Premises and other details submitted by the applicant have not been verified and the applicant is required to demonstrate the dimensions and calculation of the floor area when the lease modification/waiver application is submitted.

Fire Safety

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

- (a) No in-principle objection to the application subject to:
 - (i) fire service installations and equipment provided to the satisfaction of his department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans; and
 - (ii) means of escape separated from the industrial portion is available for the Premises.
- (b) The building is protected by sprinkler system so that the maximum permissible aggregate commercial floor area on the G/F is 460m² in accordance with TPB PG-No. 22D. The proposed use should be counted up to the aggregate commercial floor area.
- (c) Regarding matters related 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 Buildings Department (BD).
- (d) The applicant's attention is drawn 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.

Building Matters

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

- (a) No in-principle objection to the application.
- (b) The applicant should be advised to appoint an Authorized Person to assess the feasibility of the proposed alterations and additions works/change of use and whether building plans are required to be submitted to demonstrate compliance with the Buildings Ordinance (BO).
- (c) For unauthorized building works (UBW) erected on private land/buildings, enforcement action may be taken by the Building Authority (BA) to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning permission should not be construed as an acceptance of any existing building works or UBW on the Premises under the BO.
- (d) The applicant's attention is drawn to Practice Note for Authorized

Persons, Registered Structural Engineers and Registered Geotechnical Engineers APP-47 that the BA has no power to give retrospective approval or consent for UBW.

- (e) Detailed comments under the BO can only be provided at the building plan submission stage.

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

- (a) Chief Highway Engineer/Kowloon, Highways Department;
- (b) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (c) Chief Engineer/Construction, Water Supplies Department;
- (d) Commissioner for Transport (C for T);
- (e) Director of Food and Environmental Hygiene; and
- (f) District Officer (Kwun Tong), Home Affairs Department.

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

On 20.9.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 11.10.2019, no public comment was received.

11. **Planning Considerations and Assessments**

11.1 The application is to seek planning permission for the use of the Premises for ‘Shop and Services’ use. The Premises, currently partly vacant and partly used as money exchange, real estate agency and retail shop for printing materials, is located on the G/F of an industrial building within the “OU(B)” zone. The planning intention of the “OU(B)” zone is for general business uses. It allows greater flexibility in the use of the existing industrial or I-O buildings provided that the shop and services use would not induce adverse fire safety and environmental impacts. The proposed ‘Shop and Services’ use at the Premises is considered generally in line with the planning intention.

11.2 Kowloon Bay Business Area is being transformed into commercial use with many similar approved applications for ‘Shop and Services’ use on the G/F of industrial or I-O buildings in the vicinity. The ‘Shop and Services’ use at the Premises is not incompatible with the surrounding areas. For the subject building, 27 planning applications have been approved for ‘Shop and Services’ use on the G/F and 15 of them are still valid. Among them, the previous application No. A/K13/228 for ‘Shop and Services (Retail Shop and Real Estate Agency)’ uses at the Premises was approved with conditions by the Committee on 2.11.2007, and the planning permission is still valid. The current application is to apply for general ‘Shop and Services’ use not confining to specific shop types.

11.3 The proposed ‘Shop and Services’ use complies with the TPB Guidelines for

Development within the “OU(B)” zone (TPB PG-No. 22D) in that it would not induce adverse fire safety and environmental impacts on the developments within the subject building and the adjacent areas. Relevant Government departments including D of FS, CBS/K, BD and C for T have no objection to or no adverse comment on the application.

11.4 As confirmed by D of FS, the subject building is protected by a sprinkler system and subject to a maximum permissible limit of 460m² for aggregated commercial floor area on the G/F in accordance with TPB PG-No. 22D. The current aggregate commercial floor area for ‘Shop and Services’ use on the G/F of the subject building is 430.332m². Should the Committee approve the planning application, the aggregate commercial floor area on G/F of the subject building will remain unchanged as 430.332m² (as the Premises under the current application overlaps with part of the premises of the previous application No. A/K13/228), which is still within the maximum permissible limit of 460m² as stated above. In this regard, D of FS has no objection to the application subject to an approval condition on the submission and implementation of the fire safety measures.

11.5 No public comment was received on the application.

12. Planning Department’s Views

12.1 Based on the assessments made in paragraph 11 above, the Planning Department has no objection to the application.

12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 1.11.2021, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval Conditions

- (a) the submission and implementation of a proposal for fire safety measures, including the provision of fire service installations and equipment at the application premises and means of escape separated from the industrial portion of the subject industrial building within six months from the date of the approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 1.5.2020; 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 at **Appendix II**.

12.3 There is no strong reason to recommend rejection of the application.

13. **Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. **Attachments**

Appendix I	Application Form received on 12.9.2019
Appendix II	Recommended Advisory Clauses
Drawing A-1	Ground Floor Plan of the Subject Building
Drawing A-2	Floor Plan of the Premises
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Similar Applications on the G/F of the subject building
Plans A-4 and A-5	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2019**