

MPC Paper Nos. A/K14/767 & 768
For Consideration by
the Metro Planning Committee
on 12.4.2019

APPLICATIONS FOR PERMISSIONS
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NOS. A/K14/767 & 768

- Applicant** : Full Hundred Investments Limited represented by Raymond Chan Surveyors Limited
- Premises** : Portions of Workshop Unit, G/F, Hung Fuk Building, 60 Hung To Road, Kwun Tong, Kowloon
- Floor Areas** : About 128.782m² (A/K14/767)
About 98.455m² (A/K14/768)
- Lease** : (a) Kun Tong Inland Lot (KTIL) No. 150
(b) Restricted to industrial purposes (~~excluding offensive trades~~)
- Plan** : Approved Kwun Tong (South) Outline Zoning Plan (OZP) No. S/K14S/22
- Zoning** : “Other Specified Uses” annotated “Business” (“OU(B)”) [Maximum plot ratio (PR) of 12 and maximum building height of 100 meters above Principal Datum, or the PR and height of the existing building(s), whichever is the greater]
- Application** : Proposed Shop and Services

1. The Proposal

- 1.1 The applicant submitted two planning applications for permission to use the two premises for proposed ‘Shop and Services’ use. The two application premises (the Premises) are currently parts of a workshop unit on G/F of an industrial building, namely Hung Fuk Building, at 60 Hung To Road, Kwun Tong. The Premises fall within an area zoned “OU(B)” on the approved Kwun Tong (South) OZP No. S/K14S/22 (**Plan A-1**). According to Schedule II of the Notes of the OZP for the “OU(B)” zone, ‘Shop and Services’ on G/F of an industrial or industrial-office (I-O) building is a Column 2 use for which planning permission from the Town Planning Board (the Board) is required.
- 1.2 According to the applicant, the Premises are currently used as workshops. However, recent site inspection revealed that the Premises are currently vacant with renovation works in progress.
- 1.3 In support of the applications, the applicant has submitted the following documents:

A/K14/767

Application form received on 27.2.2019 (Appendix I)
 Supplementary planning statement received on 27.2.2019 (Appendix Ia)

A/K14/768

Application form received on 27.2.2019 (Appendix II)
 Supplementary planning statement received on 27.2.2019 (Appendix IIa)

- 1.4 Plans showing the G/F layout of the building and the locations of the Premises submitted by the applicant are at **Drawings A-1** (A/K14/767) and **A-2** (A/K14/768).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the applications are identical as set out in **Appendices Ia** and **Ia**, which are summarized as follows:

- (a) The Premises are located within Kwun Tong Business Area (KTBA) which is undergoing transformation over the years. The proposed use is compatible with the surroundings, of which most workshops on G/F of industrial or I-O buildings in the area have been converted to ‘Shop and Services’ use.
- (b) The proposed ‘Shop and Services’ use complies with the planning intention of “OU(B)” zone which aims to progressively phase out industrial uses and upgrade the area.
- (c) The proposed non-polluting use is compatible with the immediate uses in the building. There will be no interface problems with adjoining uses. The Premises will have their own main entrances with direct frontage facing Hung To Road and exclusive means of escape (MoE) separated from the rest of the building. Fire safety measures will also be provided to the satisfaction of the Director of Fire Services (D of FS) at building plan (BP) submission stage. No adverse traffic or environmental impact nor fire risk problem are envisaged arising from the proposed use.
- (d) There have been a number of similar approved applications in KTBA, which demonstrate the demand for ‘Shop and Services’ use. The locational advantage of the Premises will meet the foreseeable demand of space for supporting the commercial activities and the routine activities of the workers in the area.

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

The applicant is the sole “current land owner” of the Premises. 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 is 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 area on G/F of an existing industrial or 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; and
- (d) for all new development, redevelopment, conversion and material change of use, adequate parking and loading/unloading (L/UL) 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 Application

There is no previous application in respect of the Premises.

6. Similar Applications

- 6.1 There is no similar application in respect of G/F of the subject building.
- 6.2 There are a total of 206 similar applications for ‘Shop and Services’ use on G/F of industrial or I-O buildings under the “OU(B)” zone in KTBA. 172 of them were approved with conditions and the remaining 34 were rejected by the Committee, mainly for the reasons that the applications were not acceptable from fire safety viewpoint as the total aggregate commercial floor area on G/F of the industrial or I-O building(s) had exceeded the maximum permissible limit.

7. The Premises and Its Surrounding Areas (Drawings A-1 and A-2, Plans A-1 and A-2 and photos on Plan A-3)

7.1 The Premises:

- (a) occupy portions of a workshop unit on G/F of Hung Fuk Building (**Drawings A-1 and A-2**), and are currently vacant (**Plan A-3**);
- (b) the workshop unit has an entrance fronting Hung To Road, that is separated from the entrance to other floors of the building (**Drawings A-1 and A-2** and **Plans A-2 and A-3**); and
- (c) the applicant proposes to sub-divide the workshop unit to craft out two portions (i.e. the Premises) for proposed ‘Shop and Services’ use, all with separate entrances onto Hung To Road.

7.2 The building:

- (a) is a 14-storey industrial building built in 1971 (**Plan A-3**) and is not equipped with sprinkler system; and
- (b) has the following existing uses:

Floor	Main Uses
G/F	The Premises (vacant, with renovation works in progress ^[1]), metalware shop ^[1] , lift lobby and L/UL area (Drawings A-1 to A-2 and Plan A-3)
1/F-13/F	Office (1/F, 4/F, 6/F, 7/F, 9/F, 12/F & 13/F), mini-storage (2-5/F, 7/F, 9/F & 10/F), locked/vacant/works in progress (1/F, 2/F, 6/F, 8/F), shop and services ^[2] (10/F & 11/F), eating place ^[3] (11/F)

^[1] According to the approved BPs of the building, the Premises are for workshop use.

^[2] No record of planning approval granted for these Shop and Services uses.

^[3] Uses not allowed unless in the purpose-designed non-industrial portion on the lower floors of the building and such uses are separated from the industrial uses located above by buffer floor(s) of non-hazardous occupancy, and no industrial uses are located within that non-industrial portion. In view of the above, this use is not allowed in the subject building.

7.3 The surrounding areas have the following characteristics:

- (a) the neighbouring buildings along Hung To Road are mainly industrial or I-O buildings;
- (b) four existing commercial/office buildings could be found, namely, Sun Wing Building and 52 Hung To Road to the northwest, Pioneer Place (wholesale-converted) to the immediate southwest, and The Rays (wholesale-converted) to the southeast (**Plan A-2**);
- (c) the G/F units of the nearby buildings are mainly used as retail shops, eating places, banks, real estate agencies and post office; and
- (d) the MTR Kwun Tong Station is approximately 400m to the northeast (**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 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 applications.
- (b) The Premises falls within KTIL No. 150 which is held under Government Lease dated **23.8.1.2**.1966 for a term of 21 years ~~from 1.7.1955 and~~ renewable for ~~a further term of 21-17~~ years less 3 days ~~commencing from 1.7.1959~~ and was further extended to 30.6.2047. The lease conditions of the subject Lot contain, inter alia, the following restrictions:
 - (i) the user is restricted to industrial purposes ~~(excluding offensive trades)~~; and
 - (ii) no building shall be erected except a factory ~~and/or warehouse~~, ancillary offices and quarters for persons essential to the safety and security of the building.
- (c) The proposed use of the Premises for ‘Shop and Services’ use is in breach of the **relevant** lease conditions. Should the Board decide to approve the applications, the applicant is required to apply to his office for ~~a~~ temporary waivers/lease modifications ~~to regularize the breach give effect to the proposal~~. However, there is no guarantee at this stage that the temporary waivers/lease modifications would be approved. If the applications for ~~a~~ temporary waivers/lease modifications ~~are is~~ approved by LandsD in the capacity as landlord at his sole discretion, ~~they-it~~ will be subject to those terms and conditions including the payments of waiver fees/premiums as appropriate as imposed by LandsD.
- (d) His office does not have any record on the sizes or floor plans of the Premises. The applicant is required to demonstrate the dimensions and calculations of the floor areas when ~~the-a~~ temporary waivers/lease modifications applications ~~are is~~ submitted.

Building Matters

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

- (a) No objection in principle to the applications.
- (b) All building works/change in use are subject to compliance with the Buildings Ordinance (BO).
- (c) The applicant is advised to appoint an Authorized Person (AP) to submit BPs for the proposed change in use and/or alterations and additions works to demonstrate compliance with BO, in particular:
 - (i) adequate MoE should be provided to the Premises in accordance with Building (Planning) Regulation (B(P)R) 41(1) and the Code of Practice for Fire Safety in Buildings 2011 (FS Code);
 - (ii) the Premises should be separated from the remaining portion of the building by fire barriers of adequate fire resistance rating pursuant to Building (Construction) Regulation 90 and FS Code;
 - (iii) access and facilities for persons with a disability including accessible toilet should be provided to the Premises in accordance with B(P)R 72 and Design Manual: Barrier Free Access 2008;
 - (iv) adequate sanitary fitments should be provided to the Premises in accordance with the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations; and
 - (v) structural justification should be provided if solid partition walls are to be erected within the Premises.
- (d) Detailed comments under BO can only be provided at the BP submission stage.
- (e) For unauthorized building works (UBW) erected on leased land/private buildings (if any), 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 approval should not be construed as an acceptance of any UBW on the application site under BO.
- (f) The applicant's attention should be drawn to Practice Note for AP, Registered Structural Engineers and Registered Geotechnical Engineers APP-47 that BA has no powers to give retrospective approval or consent for any UBW.

Fire Safety

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

- (a) No objection in principle to the applications subject to:
 - (i) fire service installations (FSIs) and equipment being provided to the satisfaction of his department. Detailed fire services requirements will be formulated upon receipt of formal submission of general BPs or referral from licensing authority; and
 - (ii) MoE separated from the industrial portion is available for the Premises.
- (b) The building is **not** protected with a sprinkler system so that the maximum permissible aggregated commercial floor area on G/F is **230m²** in accordance with TPB PG-No. 22D. The applied use should be counted up to the aggregated commercial floor area.
- (c) Regarding matters related to fire resisting construction of the Premises, the applicant is reminded to comply with the FS Code which is administered by BA.

9.2 The following Government departments have no objection to or no comment on the applications:

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

10. Public Comments Received During Statutory Publication Period

On 8.3.2019, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 29.3.2019, no public comment was received.

11. Planning Considerations and Assessments

11.1 The applications are to seek planning permission for 'Shop and Services' use at the Premises, which are currently vacant. 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 proposed uses would not induce adverse fire safety and environmental impacts. The proposed use at the Premises is considered generally in line with the planning intention.

- 11.2 KTBA is being transformed into commercial use 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 proposed use is compatible with the changing land use character of the area.
- 11.3 The proposed use at the Premises complies with 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 consulted including D of FS, C for T, CBS/K of BD and DFEH have no objection to or no adverse comment on both applications.
- 11.4 As advised by D of FS, the building, which is not protected with a sprinkler system, is subject to a maximum permissible limit of 230m² for aggregated commercial floor area on G/F. As mentioned in paragraph 6.1 above, there is no similar application in respect of G/F of the subject building. Should the Committee approve the applications (with floor areas of 128.782m² and 98.455m² respectively), the aggregated commercial floor area will be about 227.237m², which is within the maximum permissible limit of 230m². Direct accesses are provided for the Premises with street frontages abutting onto Hung To Road. In this regard, D of FS has no objection to the applications subject to an approval condition on the submission and implementation of the proposal for 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, the Planning Department has no objection to both applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that the permissions shall be valid until 12.4.2021, and after the said date, the permissions shall cease to have effect unless before the said date, the developments permitted are commenced or the applications are renewed. The following conditions of approval and advisory clauses are suggested for both applications for Members' reference:
- (a) the submission and implementation of a proposal for fire safety measures, including the provision of fire services installations and equipment at the application premises and means of escape separated from the industrial portion of the subject industrial building before operation of the use to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
 - (b) if the above planning condition (a) is not complied with before operation of the use, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

- 12.3 The recommended advisory clauses are attached at **Appendix III**.

12.4 There is no strong reason to recommend rejection of both applications.

13. Decision Sought

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

14. Attachments

A/K14/767 & A/K14/768

Appendix I	Application form received on 27.2.2019	} (A/K14/767)
Appendix Ia	Supplementary planning statement received on 27.2.2019	
Appendix II	Application form received on 27.2.2019	} (A/K14/768)
Appendix IIa	Supplementary planning statement received on 27.2.2019	
Appendix III	Recommended advisory clauses	
Drawing A-1	Ground floor layout plan of the subject building and location of the application premises	(A/K14/767)
Drawing A-2	Ground floor layout plan of the subject building and location of the application premises	(A/K14/768)
Plan A-1	Location Plan	
Plan A-2	Site Plan	
Plan A-3	Site Photos	

**PLANNING DEPARTMENT
APRIL 2019**