

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K14/784

- Applicant** : Skiva Limited
- Premises** : Workshop No. 1, G/F, Free Trade Centre, 49 Tsun Yip Street, Kwun Tong, Kowloon
- Floor Area** : About 74.07m²
- Lease** : (a) Kwun Tong Inland Lot (KTIL) No. 358 (the Lot)
(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 12.0 and maximum building height (BH) of 100 meters above Principal Datum (mPD), or the PR and height of the existing building, 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 proposed ‘Shop and Services’ use. The Premises occupies a workshop unit on G/F of an industrial building (the IB), namely Free Trade Centre, at 49 Tsun Yip Street, Kwun Tong. It falls 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, which would require planning permission from the Town Planning Board (the Board). The Premises is currently vacant.
- 1.2 In support of the application, the applicant has submitted the application form and planning statement (**Appendices I and Ia**) which were received on 20.3.2020. Plan showing the G/F of the IB and layout of the Premises submitted by the applicant is at **Drawing A-1**.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are set out in the Supporting Planning Statement at **Appendix Ia**, and summarized as follows:

- (a) Proposed 'Shop and Services' use is considered in line with the planning intention of "OU(B)" zone and tallies with the Town Planning Board's Guideline (TPB PG-No. 22D) for development within "OU(B)" zone, which allows flexibility in the use of existing industrial and I-O building for commercial and clean industrial uses, and creates general employment.
- (b) The general business/ commercial use is compatible with the existing uses in the district and particularly the G/F uses along Tsun Yip Street and Hung To Road.
- (c) The proposed use contributes to meet the demand for retail space which is conducive to the local citizens for their daily needs.
- (d) The Premises is served by individual and separate access connected to Tsun Yip Street, and satisfies the requirement of Fire Services Department on G/F commercial areas of existing industrial/I-O building not exceeding 460m² with sprinkler systems.
- (e) The size of the Premises is not significant and in view of its retail capacity, the customers will visit on foot. As such, there will be no adverse impact on environmental, traffic and infrastructure.
- (f) Similar applications in the district were approved in the recent two years.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is the sole "current land owner" of the Site. 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 HKPSG requirements, 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 on G/F of the subject building.
- 6.2 There are a total of 211 similar applications for 'Shop and Services' use on G/F of industrial or I-O buildings under the "OU(B)" zone in the Kwun Tong Business Area (KTBA). 177 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** (Plans A-1 to A-2 and photos on Plan A-3)

- 7.1 The Premises:
- (a) occupy a workshop unit on G/F of Free Trade Centre, and is currently vacant; and
 - (b) has a direct entrance fronting Tsun Yip Street which is separated from the entrance to other floors of the IB.
- 7.2 The subject building:
- (a) is a 16-storey IB built in 1994 and is equipped with sprinkler system; and
 - (b) has the following existing uses:

Floor	Main Uses
G/F	The Premises (currently vacant), fast food shop ^[1]
1/F to 17/F ^[2]	Office (1/F to 17/F), research centre (2/F), design centre (3/F), godown (12/F), showroom (16/F), locked units (all floors)

[1] No record of planning approval granted for this use

[2] 4/F and 14/F are omitted.

7.3 The surrounding areas have the following characteristics:

- (a) the neighbouring buildings along Tsun Yip Street are mainly industrial or I-O buildings;
- (b) two existing commercial/office buildings, namely, Spectrum Tower located to the northeast along Tsun Yip Street and Two Harbour Square to the south across Wai Yip Street (**Plan A-2**); and
- (c) MTR Kwun Tong Station is approximately 500m 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 (LandsD):

- (a) No objection to the application.
- (b) The Premises falls within KTIL No. 358 which is restricted, inter alia, to industrial purposes excluding offensive trades.
- (c) The proposed shop and services use at the Lot is in contravention of the lease restrictions. If the planning application is approved, the lot owner is required to apply to LandsD for waiver/ lease modification to give effect to the proposal. However, there is no guarantee at this stage that the waiver/ lease modification application would be approved. If the application for waiver/ lease modification is approved by LandsD in the capacity as landlord at its sole discretion, it will be subject to such terms and conditions including the payment of premium or fee as considered appropriate by LandsD.

Fire Safety

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

- (a) No objection in-principle 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; and

- (ii) Means of escape separated from the industrial portion is available for the Premises.
- (b) The building is protected with a sprinkler system so the maximum permissible aggregated commercial floor area on G/F is **460m²** in accordance with TPB PG-No. 22D. The proposed 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 “Code of Practice for Fire Safety in Buildings” which is administered by Building Authority (BA).
- (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 objection in principle to the application.
- (b) All building works/ alterations and additions (A&A)/ change of use are subject to compliance with the Building Ordinance (BO). The applicant is advised to appoint an Authorized Person to ensure any building works/ A&A works/ change of use are in compliance with BO.
- (c) For unauthorized building works (UBW) erected on private land/buildings, enforcement action may be taken by the Building Authority 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 the BO.
- (d) Detailed comments under the BO will be given at the building plan submission stage.
- (e) His other comments are at **Appendix II**.

Traffic Aspect

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

- (a) As the Premises is conveniently located close to public transport services and with a constrained layout, the proposed use is in small scale, and L/UL facilities are available on the G/F of the IB, he has no in-principle objection to the application from traffic engineering perspective.
- (b) He advises the applicant that C for T has the rights to impose, alter or cancel any car parking, L/UL 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.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Chief Engineer/Mainland South, Drainage Services Department;
- (c) Chief Highway Engineer/Kowloon, Highways Department;
- (d) Commissioner of Police; and
- (e) District Officer (Kwun Tong), Home Affairs Department.

10. Public Comments Received During Statutory Publication Period

On 27.3.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 17.4.2020, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The application is to seek planning permission for proposed ‘Shop and Services’ use at the Premises, which is 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 of the “OU(B)” zone.
- 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 applied 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 and CBS/K, BD have no objection to or no adverse comment on the application.
- 11.4 As advised by D of FS, the IB is protected with a sprinkler system, which is subject to a maximum permissible limit of 460m² for aggregated commercial floor area on G/F and the proposed use should count towards the aggregate commercial floor area. As mentioned in paragraph 6.1 above, there is no similar application on G/F of the subject building. Should the Committee approve the application, the aggregated commercial floor area will be about 74.07m², which is within the maximum permissible limit of 460m². Direct access is provided for the Premises with street frontage abutting onto Tsun Yip Street. In this regard, D of FS has no objection to the application subject to an approval condition on the submission and implementation of the proposal for fire safety measures as detailed in paragraph 12(a) below.
- 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 the application.

12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 15.5.2022, 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 fire safety measures before operation of the proposed use to the satisfaction of the Director of Fire Services or of the Town Planning Board; and; 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

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

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 to 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

Appendices I and Ia	Application form and supporting planning statement received on 20.3.2020
Appendix II	Other technical comments from Government department
Appendix III	Recommended advisory clauses
Drawing A-1	Floor plan indicating the location of the Premises
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Site photo