

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K11/232

- Applicant** : Just Climb Association Ltd. represented by Toco Planning Consultants Ltd.
- Premises** : Units D and E, G/F, Prince Industrial Building, 706 Prince Edward Road East, San Po Kong, Kowloon
- Floor Area** : About 365m²
- Lease** : (a) New Kowloon Inland Lot (NKIL) 4793
(b) Restricted to industrial and/or godown purposes excluding offensive trades
- Plan** : Approved Tsz Wan Shan, Diamond Hill and San Po Kong Outline Zoning Plan (OZP) No. S/K11/29
- Zoning** : “Other Specified Uses” annotated “Business” (“OU(B)”) [Maximum plot ratio (PR) of 12 and maximum building height of 100 metres above Principle Datum or the PR and the height of the existing building(s) whichever is the greater]
- Application** : Temporary Place of Recreation, Sports or Culture (Sports Training Ground) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for temporary ‘Place of Recreation, Sports or Culture (Sports Training Ground)’ use for a period of 3 years. The Premises occupies part of the G/F (365m²) of an existing industrial building, namely, Prince Industrial Building. The building falls within an area zoned “OU(B)” on the approved Tsz Wan Shan, Diamond Hill and San Po Kong OZP No. S/K11/29 (**Plan A-1**). According to Schedule II of the Notes of the OZP for the “OU(B)” zone, ‘Place of Recreation, Sports or Culture’ is a Column 2 use for an industrial or industrial-office (I-O) building, and requires planning permission from the Town Planning Board (the Board).
- 1.2 The application is for approval of the indoor climbing gym currently in use without valid planning permission at the Premises. It is mainly divided into 4 climbing zones with artificial climbing rocks installed on full height wooden boards supported by metal frames, and ancillary areas with the female changing

room and maintenance platforms located on an upper level above the male changing room, storage and service counter portion (**Drawings A-1 to A-3**) of the Premises.

- 1.3 According to the inspection conducted by the Authorised Person (AP) appointed by the applicant, there are fitting out and alteration works at the Premises that deviated from the approved building plans, including artificial climbing rocks supported by metal frames and service platforms behind the frames for maintenance purpose, partitioning for a service counter and storages, alteration to the toilets and alteration to exit doors (**Drawings A-2 and A-3**).
- 1.4 To ensure building, fire and structural safety, the applicant undertakes to implement improvement measures, including permanent removal of the exits connecting to the common passages, re-installing an additional exit abutting Prince Edward Road East, setting back all exits from street, ensuring each exit route with a minimum width of 1,050mm (**Drawings A-1 and A-2**), appointment of a Registered Structural Engineer (RSE) to ensure existing alteration works' compliance with statutory requirement and provision of adequate fire safety installations (FSIs) such as sprinkler system, directional and exit signs, emergency lights, fire detection system and hand operated appliance (Section 3.1 of Planning Statement at **Appendix Ia**). Safety instructions on fire and emergency arrangement will be provided to all first time visitors. Patrons will not share the buildings' common areas with people carrying out industrial activities.
- 1.5 According to the submission, a survey of the existing indoor climbing gym indicates that the visitors will not be more than 30 people per hour and the peak hours mainly occur after 6:00pm on Monday to Friday and after 2:00pm on Saturday which are off-hours for workers. The fire risk in the building will be largely reduced at that time. The applicant also proposes to impose special administrative and management measures to further ensure patrons will not be exposed to any potential fire risk. For example, a "visit-by-appointment" system will be adopted to ensure sufficient number of staff is provided to safeguard the visitors from fire incidents. Also, safety instruction and access arrangement will also be provided to visitors.
- 1.6 In support of the application, the applicant has submitted the following documents:
 - (a) Application form received on 10.9.2018 (**Appendix I**)
 - (b) Planning Statement received on 10.9.2018 (**Appendix Ia**)
 - (c) Further information vide letter dated 22.10.2018 and received on 24.10.2018 providing responses to departmental comments (**Appendix Ib**)
 - (d) Further information vide letter dated 18.12.2018 providing responses to Fire Services Department's (FSD) comments (**Appendix Ic**)

- 1.7 Floor plan of the G/F of the subject building, layout plans of the Premises, section/floor plan of the subject building and pedestrian access plan submitted by the applicant are shown in **Drawings A-1 to A-5**.
- 1.8 At the request of the applicant, the Committee of the Board agreed to defer a decision on the application on 2.11.2018 for two months in order to allow time for the applicant to prepare further information to address departmental comments. Upon receipt of the applicant's further information on 18.12.2018, the application was rescheduled for consideration at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendices Ia, Ib and Ic**. They are summarized as follows:

- 2.1 The applied use is to promote and to meet the increasing demand for indoor sport climbing activity in Hong Kong. It provides various courses for kids and youth that will help promote sports culture spirit for the young generation. Also, one of the missions is to provide training to young athletes. It is in line with the Policy Address 2018 that diversified and modern sports and recreational facilities and services will continue to be offered to promote sports for all, and measures be implemented to develop a strong sporting culture through encouraging public participation (particularly among young people), developing elite athletes and organising mega sports events
- 2.2 Although sport climbing has been officially approved for 2020 Olympics, there are limited indoor sport climbing facilities provided by the Government. Therefore, the industrial space could be better utilised to provide such facilities.
- 2.3 The applied use, as a non-polluting use, is in line with the planning intention of the "OU(B)" zone since it supports the transformation and upgrading of the area.
- 2.4 The Premises meets indoor climbing's special requirement of high ceiling and large floor area. Also, the applied use is compatible with the ground floor uses in the surrounding, including fast food shops, retail shops and workshops, as well as the adjacent residential and recreational uses.
- 2.5 The applied use will not result in adverse traffic impact. The Premises is accessible via various modes of public transport which are the way most of the customers travelled with. Also, there are carparks provided at nearby shopping mall and commercial buildings (**Drawing A-5**).
- 2.6 The applied use will not result in adverse environmental impact since sport climbing activity will not generate any noise or dust.
- 2.7 The Premises is sufficiently separated from the uses located above by a carpark floor, and also separated from other workshops in the same floor by a common corridor. There are FSIs provided within the Premises and additional FSIs will be installed properly. The applicant undertakes to carry out the improvement of

FSI to the satisfaction of Fire Services Department.

- 2.8 The maximum number of people based on onsite survey is about 25 visitors and 6 staffs per hour during business hours, which is well below the original capacity of 78 persons for the premises of the building designed for industrial uses. The “visit-by-appointment” system would be able to manage and control the number of visitors in the facility and their duration of stay within a reasonable level. An approval condition could be imposed on the submission and implementation of fire services installations and internal crowd management to the satisfaction of the Board and FSD.
- 2.9 The applied use will not set an undesirable precedent since change in use from industrial to non-polluting uses at ground floor of existing industrial building is commonly found in the area. The temporary approval for a period of 3 years will allow better planning control. The applicant will fulfil the planning approval conditions and relevant Government departments’ requirements on the applied use.

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

The applicant is not a “current land owner” of the Premises but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by notifying the current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The TPB 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 FSD should be satisfied on the risks likely to arise or increase from the proposed commercial use under application; 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 (HKPSG), 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, except that the same applicant previously submitted planning application (No. A/K11/231) on 16.4.2018 for the same use (in permanent nature) at the Premises. The application was withdrawn by the applicant on 12.6.2018.

6. Similar Applications

6.1 There is no similar application within the “OU(B)” zone of the OZP.

6.2 In the Kowloon Bay and Kwun Tong Business Areas, there are two similar applications (Nos. A/K14/722 and 734) for ‘Place of Recreation, Sports or Culture (Sports Training Ground)’ at an industrial building, namely Kras Asia Industrial Building, in “OU(B)” zone. Application No. A/K14/722, covering 1/F and 2/F of the industrial building, was rejected by the Committee on 9.10.2015 for reason that the sports training ground was considered not acceptable in an industrial building from fire safety point of view. Application No. A/K14/734, covering 1/F of the same industrial building was also rejected on the same ground by the Committee on 13.1.2017 and the Board on 19.5.2017 upon review.

7. The Premises and Its Surrounding Areas (Drawings A-2 and A-3, Plans A-1 and A-2 and site photos on Plans A-3 to A-5)

7.1 The Premises:

- (a) occupies Units D & E on the G/F of Prince Industrial Building (**Drawings A-1 to A-3** and **Plans A-2** and **A-3**), and is currently used as an indoor climbing gym (**Plans A-4** to **A-5**). There is an upper level over portion of the G/F premises accessible by internal staircase (Photos 8 & 9 on **Plan A-5**); and
- (b) abuts Prince Edward Road East with a direct entrance separated from the entrance to other floors of the building, and is also served by two exits connecting to the common passage of the subject building (**Drawing A-2**, **Plans A-3** and **A-4**).

7.2 The subject building:

- (a) is a 24-storey industrial building completed in 1973;

- (b) equipped with a sprinkler system; and
- (c) has the following existing uses:

Floor	Main Uses
G/F	The Premises (currently occupied by an indoor climbing gym), workshops, warehouses
2/F	Carpark
3/F – 24/F	Workshops, offices, showroom and warehouses

Note: 1/F is an omitted floor.

7.3 The surrounding areas have the following characteristics:

- (a) the subject building is at the southern edge of the San Po Kong Business Area (SPKBA). The locality is mainly occupied by industrial and commercial developments, with industrial buildings including Chiu Tat Factory Building and New Trend Centre to the immediate east and west respectively, and Kai Tak Factory Building to the northwest across King Fuk Street; and commercial buildings including AIA Financial Centre and Stelux House to the further east and west respectively;
- (b) to the north and northeast across King Fuk Street are a temporary open-air carpark and a vacant site for the proposed holistic centre for the youth. A temporary open-air carpark and a works site could be found at the south across Prince Edward Road East which are reserved sites for Government and commercial developments in Kai Tak Development (**Plan A-2**); and
- (c) the proposed MTR Kai Tak station of Shatin to Central Link is approximately 500m to the south (**Plan A-1**).

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) The Premises is located at NKIL 4793 which is held under a Government Lease dated 14.5.1968. The lot is restricted for the use of industrial and/or godown purposes excluding offensive trades. The Premises has been used for indoor climbing gym, which is in breach of the lease conditions. Warning letter requiring the landlord to purge the said breach was registered in the Land Registry on 15.3.2018.
- (b) The proposed 'Place of Recreation, Sports or Culture (Sports Training Ground)' use is in breach of the lease conditions governing the Premises. If the planning application is approved by the Board, the lot owner has to apply to the LandsD for a lease modification or a temporary waiver to implement the proposal. However, there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including the payment of a wavier fee, as considered appropriate by the LandsD acting in the capacity of landlord.

Building Matters

9.1.2 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 AP and/or RSE to assess the feasibility of the proposed alterations and additions works/change of use and submit alterations and additions plans in particular the addition of maintenance platforms at upper level and alteration to the approved lavatories and associated staircase to demonstrate compliance with the BO and allied regulations.
- (c) For Unauthorised Building Works (UBWs) 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 in the Premises under the BO.
- (d) The applicant should pay attention to Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers PNAP APP-47 that the BA has no powers to give retrospective approval or consent for UBWs.

- (e) Adequate means of escape and fire separation should be provided to the premises in accordance with Building (Planning) Regulation 90 and the Code of Practice for Fire Safety in Building 2011.
- (f) Access and facilities for persons with a disability should be provided in accordance with Building (Planning) Regulation 72.
- (g) Detailed comments under the BO can only be provided at the building plan submission stage.

Fire Safety

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

- (a) The subject application for “Place of Recreation, Sports or Culture (Sports Training Ground)’ use on G/F of Prince Industrial Building is considered unacceptable from fire safety point of view and with the grave concern on the much higher potential risk of fire and accident in industrial buildings (IBs) arising from the modus operandi of industrial undertakings.
- (b) It is evidenced from statistics that the size of developed fires and magnitude of accidents in IBs were usually large and severe due to bulk storage and use of combustible materials, hazardous chemicals or a mix of them with various dangerous goods (DG) associated with industrial undertakings. It is inherent that persons in IBs are exposed to higher life risk.
- (c) The fire safety concerns associated with commercial activities within an IB are summarized as follows:-
 - i. Unpreparedness of the non-industrial related visitors in facing the potential risks inside and outside IBs and their unfamiliarity with the setting and environment of the IBs, rendering their escape materially much more difficult;
 - ii. Much higher potential risks in terms of fire and hazards presented by industrial activities;
 - iii. Intensive physical assistance required by visitors who are children, old, infirm and handicapped in case of fire or other calamities. However, adequate assistance will most unlikely be available immediately, thus putting their lives in grave peril;
 - iv. Difficulties which will jeopardize escape in case of emergencies, e.g. smoke/ fire / explosion, chemical hazards, etc; and
 - v. Even in non-emergency, increased risk of exposure to chemical

hazards due to loading and unloading activities inside, including common areas, and in the vicinity of IBs.

(d) The co-existence of industrial and non-industrial uses is therefore considered incompatible unless there is a physical separation between the industrial and non-industrial portions along with a number of additional requirements to be complied with in order to mitigate the above-mentioned risk posed to the non-industrial related visitors. This Department may accept the non-industrial related activities in IBs under the following conditions:

i. Partial change of use from industrial to commercial on G/F of an IB

Certain commercial uses are allowed on the ground floor of an existing IB with the aggregate commercial floor areas not exceeding 460 m² (with full sprinkler protection to the IB) and 230 m² (without full sprinkler protection to the IB) respectively. In addition to the limitation on the floor area, the means of escape (MoE) of the commercial uses area should be completely separated from the industrial portion. Such commercial uses should not attract unreasonably large number of persons to stay for long periods of time, as in this case (i.e. place of recreation, sports or culture).

ii. Total change of use from industrial to commercial below a buffer floor

The lowest three floors are allowed to be wholly converted to commercial uses if such commercial portion is separated from the industrial portion by a buffer of non-hazardous occupancy, such as a carparking floor, provided that the following conditions are fulfilled:-

- measures acceptable to FSD shall be imposed to ensure the 'carpark' would not be changed for commercial or industrial use;
- the alteration and addition works to be submitted through the Centralized Processing System of Buildings Department under the Buildings Ordinance Cap 123 that:
 - fire service installations shall be provided in accordance with the prevailing “Code of Practice for Minimum Fire Service Installations and Equipment”;
 - the lower non-industrial portion should be completely separated from the upper industrial portion (including the buffer floor). Connection between the two portions is not allowed (i.e. individual MoE, means of

access, entrance lobby, lift, etc. are required) to avoid the co-use of common areas by industrial activities (e.g. loading / unloading of dangerous goods and chemical) with members of the public in the commercial portion and facilitate a more effective evacuation in case of emergency; and

- the buffer floor shall be separated from the lower non-industrial portion and the upper industrial portion by floor slabs, walls or doors having an fire resistance rating (FRR) of not less than that required for the elements of construction.

(e) Having reviewed the applicant's further information at **Appendix Ic**, he advises that his comments in paragraphs (a) to (d) above are still valid.

Licensing Aspect

9.1.4 Comments of the Chief Officer (Licensing Authority), Home Affairs Department (CO(LA), HAD):

- (a) No objection to the application under the Clubs (Safety of Premises) Ordinance, Cap 376 (CuSPO).
- (b) In the absence of details of the mode of operation of the proposed sports training ground, he wishes to point out that in the event for the mode of operation of the aforesaid use falls within the definition of "club" under the CuSPO, a Certificate of Compliance (CoC) for club-houses will have to be obtained from the Office of the Licensing Authority (OLA) before its operation.
- (c) The OLA will not normally issue CoC for club-houses situated in an industrial building (except on the ground floor), unless such application is supported by evidence showing that the Building Authority has granted approval/acceptance of the change of use of the premises specifically from industrial to club use. In such case, OLA would process the application for CoC in accordance with the CuSPO upon receipt of a formal application, during which detailed requirements would be issued to the applicant after a site inspection is conducted by staff of OLA.

Food and Environmental Hygiene

9.1.5 Comments of the Director of Food and Environmental Hygiene (DFEH):

The proposed sport training ground does not fall within the definition of place of public entertainment and a Places of Public Entertainment Licence is not required.

9.2 The following Government departments have no comments on the application:

- (a) Chief Highway Engineer/Kowloon, Highways Department;
- (b) Chief Engineer/Mainland South, Drainage Services Department;
- (c) Chief Engineer/Development (2), Water Supplies Department;
- (d) Commissioner for Transport;
- (e) Commissioner of Police;
- (f) District Officer (Wong Tai Sin), Home Affairs Department; and
- (g) Director of Leisure and Cultural Services.

10. Public Comments Received During the Statutory Publication Period

On 18.9.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 9.10.2018, one public comment was received from an individual supporting the application (**Appendix II**). The comment indicated that promoting sports climbing can benefit the society and the applied use can nurture future athletes.

11. Planning Considerations and Assessments

11.1 The application is for approval of the ‘Place of Recreation, Sports or Culture (Sports Training Ground)’ use at the Premises, which falls within the “OU(B)” zone, for a temporary period of 3 years. The Premises is currently occupied by an indoor climbing gym without valid planning permission. 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 applied use would not induce adverse fire safety and environmental impacts. The applied use at the Premises is not compatible with the uses in the subject industrial building with workshops/warehouse in the same floor.

11.2 According to the submission, the applied sports training ground is intended to be used by the general public, including the kids and youth, attending training courses. The users are occasional visitors only and are not regular workers in the industrial building. The applicant undertakes to provide adequate fire safety measures as indicated in paragraph 1.4 above (i.e. re-installing an exit abutting Prince Edward Road East, permanent closure of exits connecting to common passages, minimum width of exit route, directional and exit signs, fire detection system and hand operated appliance) and adopt a visit-by-appointment system and providing safety instructions to first time visitors. Also, the Premises is separated from the adjoining and upper level workshops by a common passage and a carpark floor respectively (**Drawing A-4**), and the visitors are unlikely to use the common areas/passage in daily operation or in the case of emergency under the proposed modification to the exits (i.e. only two exits abutting Prince

Edward Road East will be provided).

- 11.3 Despite the abovementioned fire safety/administrative measures and the temporary nature of the applied use, D of FS has grave concern on the much higher potential risk of fire and accident in industrial buildings (IBs), particularly when the applied use would attract large number of visitors to stay for long period of time in the Premises which co-exists with the other industrial uses in the same floor. Hence, D of FS does not support the application. The fire safety concerns include the attraction of visitors not familiar with the setting and environment of the IBs which have much higher potential risks in terms of fire and hazards associated with industrial activities. The non-industrial visitors possibly including children would be difficult to escape in case of emergencies, e.g. smoke/fire/explosion, chemical hazards, etc. Detailed concerns from D of FS are in paragraph 9.1.3. In this regard, the applied use does not comply with the TPB Guidelines for Development within the “OU(B)” zone (TPB PG-No. 22D) in that it would induce adverse fire safety impact and D of FS is not satisfied on the risk likely to arise or increase from the applied use.
- 11.4 As mentioned in paragraph 6.2 above, two similar applications (Nos. A/K14/722 and 734) for sports training ground at an industrial building in “OU(B)” zone in Kwun Tong Business Area were rejected by the Committee on 9.10.2015 and the Board on 19.5.2017 respectively, on the ground that the use was not acceptable in an industrial building from fire safety point of view. There is no strong ground in this application to support a departure from decision on similar applications.
- 11.5 One public comment was received supporting the application on ground that sport climbing can benefit the society and nurture future athletes. While the supporting view is noted, the major planning consideration is on fire safety issue as set out above.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, the Planning Department does not support the application for the following reason:

The sports training ground use at the application premises is considered not acceptable from fire safety point of view.

- 12.2 Alternatively, should the Committee decide to approve the application, the permission shall be valid on a temporary basis for a period of 3 years, as applied for, up to 1.2.2022. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval conditions

- (a) the submission and implementation of the proposal for fire safety measures, including the provision of a means of escape completely separated from the industrial portion of the subject industrial building and fire service

installations and equipment at the application premises 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 1.8.2019; and

- (b) if the above planning condition 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 III**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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.

14. Attachments

Appendix I	Application form received on 10.9.2018
Appendix Ia	Planning Statement received on 10.9.2018
Appendix Ib	Further information vide letter dated 22.10.2018 and received on 24.10.2018 providing responses to departmental comments
Appendix Ic	Further information vide letter dated 18.12.2018 providing responses to FSD's comments
Appendix II	Public comments received
Appendix III	Recommended advisory clauses
Drawing A-1	Floor plan of the G/F of the subject building
Drawings A-2 and A-3	Proposed Layout Plans of the Premises
Drawing A-4	Section of the subject building
Drawing A-5	Pedestrian access plan
Plan A-1	Location Plan

Plan A-2

Site Plan

Plans A-3 to A-5

Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2019**