

MPC Paper No. A/K11/234  
For Consideration by  
the Metro Planning Committee  
on 16.8.2019

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/K11/234**

- Applicant** : On Tak Enterprise Company Limited
- Premises** : Workshop on G/F, 1 Sheung Hei Street, San Po Kong, Kowloon
- Floor Area** : About 35.9m<sup>2</sup>
- Lease** : (a) New Kowloon Inland Lot (NKIL) No. 4722  
(b) Restricted for the use of industrial purpose excluding offensive trades  
(c) No building shall be erected except a factory and ancillary offices and quarters for persons essential to the safety and security of the building
- 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)”)   
  
[subject to a maximum plot ratio (PR) of 12.0 and a maximum building height of 120 meters above Principal Datum, or the PR and the height of the existing building(s), whichever is the greater. A minimum of 1.5m-wide non-building area from lot boundary abutting Sheung Hei Street shall be provided.]
- 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 Workshop on G/F of an existing industrial building (On Tin Centre) (**Plan A-2**),

which 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 the 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 building requires planning permission from the Town Planning Board (the Board).

- 1.2 In support of the application, the applicant has submitted an application form (**Appendix I**) with supporting planning statement (**Appendix Ia**) which both were received by the Board on 4.7.2019.
- 1.3 A plan showing the layout of the G/F of the building 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 **Appendix Ia**. They are summarised as follows:

- (a) the proposed ‘Shop and Services’ use is in line with the planning intention of “OU(B)” zone in respect of allowing flexibility in the use of the existing industrial buildings for commercial and clean industrial uses. As such, the proposed use would unlikely induce adverse environmental and fire safety impacts;
- (b) the proposed use complies with the Town Planning Board Guidelines for Development within the “OU(B)” zone (TPB PG-No. 22D). The Premises, located on G/F, is served by individual and separate access directly connected to Sheung Hei Street. It is the only commercial use on G/F, which satisfies the requirement of Fire Services Department (FSD) regarding G/F commercial areas of an existing industrial/I-O building with sprinkler systems not to exceed 460m<sup>2</sup>;
- (c) no additional traffic is anticipated as potential customers are likely to visit the Premises on foot;
- (d) the Premises is located within the San Po Kong industrial area which is undergoing rapid transformation attributing to the rise of general business or commercial uses and the decline of traditional industrial uses. The proposed use is non-polluting in nature, which echoes with the transformation and therefore is compatible with the surrounding context. It also provides ancillary services to support the emerging businesses (such as offices and hotels) with active shop frontage and reflect the dynamic commercial landscape in the area;

- (e) there are a number of similar cases of ‘Shop and Services’ use approved in the district; and
- (f) the proposed use is technically sustainable as the anticipated fire safety, traffic and environmental impacts are negligible.

### **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 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. 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 460m<sup>2</sup> and 230m<sup>2</sup> 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, separated 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

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. Should the Committee approve the planning application, the total approved commercial floor area on the G/F of the subject building will be 35.9m<sup>2</sup>, which is within the maximum permissible limit of 460m<sup>2</sup> on the G/F of an industrial or I-O building with a sprinkler system in accordance with TPB PG-No. 22D.

6.2 Since 2012, the Committee has considered 13 planning applications for various “Shop and Services” use on the G/F of the industrial or I-O buildings within the “OU(B)” zone in the San Po Kong Business Area (SPKBA) (**Plan A-1**). The Committee approved 12 of these applications while rejected 1 application, mainly for the reason that the application was not acceptable from fire safety point of view as the total aggregate commercial floor area on the G/F of the industrial building had exceeded the maximum permissible limit.

## 7. The Premises and Its Surrounding Areas (**Drawing A-1, Plans A-1 and A-2**, and site photos on **Plans A-3 to A-4**)

7.1 The Premises:

- (a) occupies the only workshop unit on the G/F of the subject industrial building (**Drawing A-1**);
- (b) abuts Sheung Hei Street with direct entrance from the street (**Plan A-3**);  
and
- (c) is currently vacant (**Plan A-4**).

7.2 The subject building is:

- (a) a 23-storey industrial building (including 1 basement level) completed in 2016 and is equipped with sprinkler system (**Plan A-3**);
- (b) currently occupied by the following uses:

<b>Floor</b>	<b>Current Uses</b>
B/F	Carparks
G/F	<b>The Premises</b> , entrance hall, carparks and loading/unloading areas
1/F to 3/F	Workshops and offices
5/F	Plant rooms
6/F to 25/F	Workshops and offices

Note: 4/F, 13/F, 14/F and 24/F are omitted.

7.3 The surrounding areas have the following characteristics:

- (a) the locality is mainly occupied by industrial buildings or I-O buildings and the G/F of the neighbouring industrial buildings, particularly along Sheung Hei Street, are being used mainly for logistic warehouses, metalware shops, motor services shops, canteens, and real estate agencies; and
- (b) the Premises is well served by various modes of public transport. San Po Kong Public Transport Terminus and the MTR Diamond Hill Station are 400m and 350m to the further northeast respectively (**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 summarised 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 is located at NKIL No. 4722 which is held under a Government Lease dated 23.12.1966 for a term of 99 years commencing from 1.7.1898 and was further extended to 30.6.2047. The lease conditions of the Lot contain, inter alia, the following restrictions:
  - (i) the user is restricted to industrial purposes excluding any offensive trades;
  - (ii) no building shall be erected except a factory and ancillary offices and quarters for persons essential to the safety and security of the building;
  - (iii) no building shall exceed a height of 300 feet above Colony Principal Datum; and
  - (iv) will not erect or use or allow to be used the pink hatched black area at ground floor level for any purpose other than the parking, loading and unloading of motor vehicles and a clear headroom of 15 feet from ground level is required.
- (c) The proposed ‘Shop and Services’ 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 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 premium/waiver fee, as considered appropriate by the LandsD acting in the capacity of landlord.
- (d) There is no record of the size or floor plan of the Premises. The applicant is required to demonstrate the dimensions and calculation of the floor area when the temporary waiver/lease modification application is submitted.

## 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 FSD. 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 that the maximum permissible aggregate commercial floor area on G/F is 460m<sup>2</sup> in accordance with TPB PG-No. 22D. The applied 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 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) 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 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 application site 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 powers to give retrospective approval or consent for any UBW.
- (e) Detailed comments under the BO can only be provided at the building plan submission stage.

### Traffic

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

- (a) No objection to the application.
- (b) No in-principle objection to the nil provision of car parking and loading / unloading spaces given the following observations:
  - (i) Small and constrained site layout.
  - (ii) Conveniently located to mass transport / public transport services.
  - (iii) Small scale of development.
- (c) The applicant's attention is drawn to the fact that C for T has the rights to impose, alter or cancel any car parking loading / unloading 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 comment on the application:

- (a) Chief Engineer/Mainland South, Drainage Services Department;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Chief Highway Engineer/Kowloon, Highways Department;
- (d) Director of Food and Environmental Hygiene; and
- (e) District Officer (Wong Tai Sin), Home Affairs Department.



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

On 12.7.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 2.8.2019, no comment was received.

## **11. Planning Considerations and Assessments**

11.1 The application is to seek planning permission for ‘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 ‘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 SPKBA is under transformation with increasing commercial use. Many similar approved applications for ‘Shop and Services’ uses on the G/F of industrial or I-O buildings are found in the vicinity. The applied use at the Premises is compatible with the changing land use character of the area.

11.3 The proposed ‘Shop and Services’ 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 including D of FS, CBS/K of BD and C for T have no objection to or no adverse comments on the application.

11.4 As confirmed by D of FS, the subject building is equipped with a sprinkler system and subject to a maximum permissible limit of 460m<sup>2</sup> for aggregated commercial floor area on the G/F in accordance with TPB PG-No. 22D. Should the Committee approve the planning application, the total approved commercial area will be 35.9m<sup>2</sup>, which is within the maximum permissible limit of 460m<sup>2</sup> as stated above.

11.5 There is no public comment 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 16.8.2021, 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 also suggested for Members' reference:

#### Approval Conditions

- (a) the submission and implementation of the fire safety measures, including the provision of fire service installations and equipment at the application premises and means of escape completely separated from the industrial portion in 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 is not complied with before the 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 at **Appendix II**.

12.3 There is no strong planning 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.
- 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**

<b>Appendix I</b>	Application form received on 4.7.2019
<b>Appendix Ia</b>	Supporting Planning Statement received on 4.7.2019
<b>Appendix II</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Layout plan of the G/F of the subject building

<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plans A-3 to A-4</b>	Site photos

**PLANNING DEPARTMENT**  
**August 2019**