

MPC Paper No. A/K13/309
For Consideration by
the Metro Planning Committee
on 16.3.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K13/309

- Applicant** : Mr. HO Chung Yin Andrew represented by Mr. PONG Yuen Sun Louis of Liao, Ho & Chan Solicitors & Notaries
- Premises** : Unit 9, G/F, Kam Hon Industrial Building, 8 Wang Kwun Road, Kowloon Bay, Kowloon
- Floor Area** : 141.762m²
- Lease** : (a) New Kowloon Inland Lot (NKIL) 5858
(b) Restricted to industrial and/or godown purposes, excluding any offensive trade
- 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. A minimum of 3m-wide non-building area from lot boundary abutting Wang Chiu Road 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 ‘Shop and Services’ use. The Premises is currently used as a vehicle repair workshop and occupies Unit 9 on the G/F of an existing industrial building, namely Kam Hon Industrial Building. The subject 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 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**) which was received by the Board on 17.1.2018.

- 1.3 Plans showing the layout of the G/F of the subject building and the Premises submitted by the applicant are at **Drawings A-1 and 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 summarised as follows:

- (a) the proposed 'Shop and Services' use is compatible with other uses in the area;
- (b) the proposed use would better utilise the ground floor of the subject industrial building by providing such use to serve users of the industrial/commercial activities in the vicinity;
- (c) the subject building is easily accessible. The MTR Kowloon Bay Station is located within a 10-minute walking distance and a number of bus and mini-bus routes are also available;
- (d) the current floor loading and fireproof facilities are sufficient as the fire safety requirements on the proposed use is less stringent than that of industrial use; and
- (e) there is an existing vehicular access serving the subject building. No additional traffic is anticipated as potential customers are likely to be coming from within the area.

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 industrial-office (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 (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 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 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 Application**

The Committee has so far considered one planning application for shop and services use at the premises on the G/F of the subject industrial building. The application No. A/K13/225 was approved by the Committee on 24.8.2007 for 'Shop and Services (Fast Food Shop)' use covering Unit 5-E1 (20.44m²) (**Plan A-3**). The planning permission was revoked on 24.8.2008 due to non-compliance with approval condition on fire safety measures.

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 Unit 9 on the G/F of Kam Hon Industrial Building at 8 Wang Kwun Road in Kowloon Bay (**Plan A-3**);
- (b) abuts Wang Kwun Road with direct entrance separated from the entrance to other floors of the existing industrial building (**Plans A-2 to A-4**); and
- (c) is currently used as a vehicle repair workshop (**Plans A-4 and A-5**)

7.2 The subject building is:

- (a) a 12-storey industrial building sandwiched between Wang Kwun Road and Wang Chiu Road;
- (b) equipped with a sprinkler system; and
- (c) the current uses by floor are summarised as follows:

Floor	Current Uses
B/F	Carparks
G/F	The Premises (currently used as a vehicle repair workshop), workshop, canteens, office and warehouses.
1/F to 10/F	Warehouses, workshops, food factories, offices, canteens and party house ^[1] .

[1] There is no record of planning approval for such use.

7.3 The surrounding areas have the following characteristics:

- (a) the locality is mainly occupied by industrial and commercial developments, with industrial buildings including Continental Electric Building, Wing Fat Industrial Building and Proficient Industrial Centre to the northeast, southeast and south respectively, and commercial buildings including China Construction Bank Centre and Nam Fung Commercial Centre to the north and southwest respectively;
- (b) a newly completed commercial development with a public open space are located to the east across Wang Chiu Road while a bus depot is located to the west across Wang Kwun Road;
- (c) the G/F units of nearby buildings are mainly used for eating places, shop and services uses and some motor vehicle showrooms and workshops; and
- (d) MTR Kowloon Bay Station is about 400m to the east.

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) She has no objection to the application.
- (b) The Premises falls within NKIL 5858 which is held under the Conditions of Sale No. 11497 dated 30.4.1981 that restricts the Lot to be used for industrial or godown purposes or both, excluding any offensive trade.
- (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 should apply to her 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) Her office has no record of the size and floor plan of the Premises and is therefore unable to verify the details of the same as stated by the applicant.

Fire Safety

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

- (a) He has no in-principle objection 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 subject industrial building is protected with a sprinkler system so that 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 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, BD (CBS/K, BD):

- (a) He has 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 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 APP-47 that the BA has no powers to give retrospective approval or consent for UBW.

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

- (a) Chief Highway Engineer/Kowloon, Highways Department;
- (b) Chief Engineer/Mainland South, Drainage Services Department;
- (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 26.1.2018, the application was published for public inspection. During the three weeks of the statutory public inspection period, which ended on 20.2.2018, no comment was received.

11. **Planning Considerations and Assessments**

11.1 The "OU(B)" zone is intended 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 applications approved for various 'Shop and Services' uses on the G/F of industrial or I-O buildings in the vicinity. For the subject building, there was a planning application at Unit 5-E1 on the G/F previously approved for 'Shop and Services (Fast Food Shop)' use but was subsequently revoked due to non-compliance with approval condition. The proposed 'Shop and Services' use at the Premises is not incompatible with the surrounding areas.
- 11.3 The proposed 'Shop and Services' use at the Premises 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, traffic, environmental and infrastructural impacts to 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/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. There is currently no approved commercial floor area on the G/F of the subject building. Should the Committee approve the planning application, the total approved commercial floor area will be 141.762m², which is within the maximum permissible limit of 460m².
- 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 16.3.2020, 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 the proposal for 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 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 at **Appendix II**.
- 12.4 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**

Appendix I	Application form received on 17.1.2018
Appendix II	Recommended Advisory Clauses
Drawing A-1	Floor plan of the G/F of the subject building
Drawing A-2	Layout plan of the Premises
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Similar application on G/F of the subject building
Plans A-4 and A-5	Site photos