

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K13/312

- Applicant** : Mr. Chan Wing Keung and Ms. Ho Wai Fong represented by Centaline Surveyors Limited
- Premises** : Unit 16, G/F, Kowloon Bay Industrial Centre, 15 Wang Hoi Road, Kowloon Bay, Kowloon
- Total Floor Area of Premises** : About 59.667m²
- Lease** : (a) New Kowloon Inland Lot (NKIL) 5833
(b) Restricted to industrial and/or godown (excluding offensive trades) purposes
- 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]
- 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, currently vacant, occupies Unit 16 on the G/F of an existing industrial building, namely Kowloon Bay Industrial Centre at 15 Wang Hoi Road, Kowloon Bay. The 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 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 or industrial-office (I-O) building is a Column 2 use and planning permission from the Town Planning Board (the Board) is required.
- 1.2 In support of the application, the applicant has submitted the following

documents:

- (a) Application form received by the Board on 18.6.2019 (**Appendix I**)
- (b) Further Information vide email dated 2.7.2019 (**Appendix Ia**) providing clarifications on structural condition of the application premises

1.3 Plans showing the layout of the G/F of the subject building and the Premises are at **Drawings A-1 to A-2**. According to the applicant, the existing opening on the partition wall between the Premises and Unit 15 will be reinstated in accordance with the approved building plans (**Appendix Ia** and **Plan A-5**).

2. **Justifications from the Applicant**

The justification put forth by the applicant in support of the application is set out in **Appendix I**. They are summarized as follows:

- (a) The proposed 'Shop and Services' use is in line with the Government policy for revitalization of industrial building and the planning intention of "OU(B)" zone for general business uses.
- (b) With the high demand for retail shops in the locality, the proposed use which allows maximum flexibility in the use of the existing industrial building and provide employment opportunities would be more viable.
- (c) The proposed use is considered compatible with surrounding G/F uses for car parking and general retail purposes.
- (d) No adverse traffic impact is anticipated as potential customers are likely to be nearby occupiers.
- (e) The Premises has direct access to Lam Fook Street. All exit routes are provided with sufficient lighting. Hence, sufficient means of escape have been provided.
- (f) There are a number of similar approved cases for 'Shop and Services' use in the vicinity.

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 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 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. In all cases, separate 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 The Committee has so far considered 32 planning applications for various shop and services uses on the G/F of the subject industrial building. Whilst 26 of these applications were approved by the Committee, 6 were rejected by the Committee for fire safety reasons. Details of the planning applications are shown in the table at **Appendix II** and **Plan A-3**:
- 6.2 Should the Committee approve the planning application, the total approved commercial floor area on the G/F of the subject building will be 430.332m², i.e. 370.665m² + 59.667m², which is within the maximum permissible limit of

460m² on G/F of an industrial or I-O building with a sprinkler system.

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 16 on the G/F of the subject building (**Plan A-4**);
- (b) locates at the junction of Wang Hoi Road and Lam Fook Street with a direct entrance at Lam Fook Street (**Plan A-4**); and
- (c) is currently vacant (**Plan A-5**)

7.2 The subject building is:

- (a) a 11-storey industrial building with an additional basement floor for carpark use bounded by Wang Tai Road, Wang Hoi Road and Lam Fook Street;
- (b) equipped with a sprinkler system; and
- (c) the current uses by floor are summarized as follows:

G/F	Unit 16 (The Premises currently vacant), office, logistic facility, canteens, warehouses/workshops, shop and services ^[1] , eating places ^[1] and vacant/locked units
1/F – 10/F	Warehouses/workshops, offices, art studios, shop and services ^[1] and party house ^[1]

^[1]There is no record of approval or valid planning permission granted for such uses at some of the units.

7.3 The surrounding areas have the following characteristics:

- (a) the locality is mainly occupied by industrial or I-O buildings, including Kingsford Industrial Centre, Hoplite Industrial Centre and Shun Fat Industrial Building to its south, west and north respectively;
- (b) to its east across Wang Hoi Road is Telford House, a commercial development with a pedestrian footbridge across Wai Yip Street connecting Telford Gardens and MTR Kowloon Bay Station; and
- (c) the units on the G/F of the neighbouring industrial buildings are mainly used for shop and services purposes such as banks, real estate agencies, metalware shops, florist shops and eating places while workshops and showrooms can also be found in other G/F units in the industrial buildings.

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) He has no objection to the application.
- (b) The Premises falls within NKIL 5833 and is held under Conditions of Sale No. 11468 dated 15.1.1981, that restricts the lot to be used for the purposes of industrial and/or godown (excluding offensive trades).
- (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 is required to apply to his 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) The floor area of the Premises and other details submitted by the applicant have not been verified and the applicant is required to demonstrate the dimensions and calculation of the floor area when the lease modification/waiver application is submitted.

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 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 by sprinkler system so that the maximum permissible aggregate commercial floor area on the G/F is 460m² in accordance with TPB PG-No. 22D. The proposed 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 Buildings Department (BD).
- (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 Surveyors/Kowloon, Buildings Department (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 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 on the Premises 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 power to give retrospective approval or consent for UBW.
- (e) Detail comments under the BO can only be provided at the building plan submission stage.

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

- (a) Chief Highway Engineer/Kowloon, Highways Department;
- (b) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (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 25.6.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 16.7.2019, one public comment from the Incorporated Owners (IO) of the subject building against the application was received (**Appendix III**). The main concern is the possible impact of the proposed use on the sewage facilities of the subject building.

11. **Planning Considerations and Assessments**

11.1 The application is to seek planning permission for the use of the Premises for 'Shop and Services' use. The Premises, currently vacant, is located within the "OU(B)" zone which 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 approved applications for 'Shop and Services' use on the G/F of industrial or I-O buildings in the vicinity. For the subject building, 26 planning applications were approved for 'Shop and Services' use on the G/F while 14 of them are still valid. The 'Shop and Services' use at the Premises is not incompatible with the surrounding areas and other developments in the subject building.

11.3 The proposed 'Shop and Services' use 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 and environmental impacts on 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. The total commercial floor area for 'Shop and Services' use approved by the Committee on the G/F of the subject building is 370.665m². Should the

Committee approve the planning application, the total approved commercial floor area on G/F of the subject building will be 430.332m², which is still within the maximum permissible limit of 460m² as stated above.

- 11.5 Regarding the public comment from the IO of the subject building raising concern about the possible impact of the proposed 'Shop and Services' use on the sewage facility of the subject building, CBS/K, BD and CE/MS, DSD have no objection to/comment on the application.

12. **Planning Department's Views**

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comment mentioned in paragraph 10, 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 suggested for Members' reference:

Approval Conditions

- (a) the submission and implementation of 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

The recommended advisory clauses are at **Appendix IV**.

- 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**

Appendix I	Application form received on 18.6.2019
Appendix Ia	Further Information vide email dated 2.7.2019 providing clarifications on the structural condition of the Premises
Appendix II	Similar Applications on the G/F of the subject building
Appendix III	Public Comment
Appendix IV	Recommended advisory clauses
Drawing A-1	Ground floor plan of the subject building
Drawing A-2	Floor plan of the Premises
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Similar applications on the G/F of the subject building
Plans A-4 and A-5	Site photos

**PLANNING DEPARTMENT
AUGUST 2019**