

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

**APPLICATION NO. A/K14/772**

- Applicant** : The Incorporated Owners of Liven House
- Premises** : Watchman Room, G/F, Liven House, 61-63 King Yip Street, Kwun Tong, Kowloon
- Floor Areas** : 30.47m<sup>2</sup>
- Lease** : Kun Tong Inland Lot (KTIL) No. 67
- the lot owner will not erect or allow to be erected on the demised premises any building other than a factory for the manufacture of paints vanishes and lacquer vacuum flasks machinery and engineering products metal windows and doors nails screws bolts etcetera aluminium ware electric bulbs electric torches electrical appliances and fittings miscellaneous metal products (manufacturing uses) and ancillary offices and quarters for persons essential to the safety and security of the building
  - the lot owner will not use or allow to be used the demised premises for any purpose other than the purposes of the said factory for manufacturing uses
  - the lot owner will not during the continuance of this demise use exercise or follow in or upon the demised premises or any part thereof the trade or business of a brazier slaughterman soap-maker fellmonger melter of tallow oilman butcher distiller victualler or tavern-keeper blacksmith nightman scavenger or any other noisy noisome or offensive trade or business whatever (offensive trade)
- 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 and maximum building height of 130 meters above Principal Datum, or the PR and height of the existing building(s), whichever is the greater]
- Application** : 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 occupies a watchman room

on G/F of an industrial building, namely Liven House, at 61-63 King 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 for which planning permission from the Town Planning Board (the Board) is required.

- 1.2 According to the applicant and recent site inspection, the Premises is currently vacant.
- 1.3 In support of the application, the applicant has submitted the application form (**Appendix I**) which was received on 15.4.2019.
- 1.4 Plan showing the internal 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 as set out in **Appendix I** are summarized as follows:

- (a) The Premises has been used as a local provisions store for many years. Upon receipt of a letter from the Lands Department (LandsD) in October 2018 informing that the use of the Premises for shop and services is in breach of lease conditions, the applicant immediately requested the operator to cease the operation of the shop use.
- (b) The applicant has obtained consensus from the owners of the building for processing all necessary procedures in conforming to relevant legislation and Government requirements for resuming of the shop use at the Premises.
- (c) There is a need to meet the demand of the occupants of the building for the proposed use.

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

The applicant is not the “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 demonstrating that reasonable steps have been taken to obtain/give the necessary owner’s consent/notification. Detailed information would be deposited at the meeting for Member’s 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 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; 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 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 Applications**

- 6.1 There is no similar application in respect of G/F of the subject building.
- 6.2 There are a total of 209 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). 175 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 (Drawings A-1 and A-2, Plans A-1 and A-2 and photos on Plans A-3 and A-4)**

### 7.1 The Premises:

- (a) occupies a premises approved as a watchman room on G/F under the occupation permit of the building, namely Liven House, and is currently vacant (**Drawing A-2** and **Plan A-3**);
- (b) has an entrance fronting King Yip Street that is separated from the entrance to other floors of the building (**Drawing A-2** and **Plan A-3**); and
- (c) has a cockloft with staircase access above the Premises (**Plans A-4**). The floor area of the cockloft has not been included in the application.

### 7.2 The subject building (**Plan A-3**):

- (a) is a 13-storey industrial building built in 1978 and is equipped with sprinkler system; and
- (b) has the following existing uses:

Floor	Main Uses
G/F	<b>The Premises</b> , factory unit, lift lobby, carpark and L/UL area
1-12/F	Office, godown (6/F)

### 7.3 The surrounding areas have the following characteristics (**Plans A-1** and **A-2**)::

- (a) the neighbouring buildings along King Yip Street are mainly industrial or I-O buildings;
- (b) the G/F units of the nearby buildings are mainly used as retail shops, eating places/factory canteens, fast food counters, bank, money exchange and real estate agency; and
- (c) the MTR Kwun Tong Station is approximately 350m to the north.

## 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

(DLO/KE, LandsD):

- (a) No objection to the application.
- (b) The Premises falls within KTIL No. 67 held under Government Lease dated 28.12.1965 as varied by a Deed of Variation dated 24.5.1971 for a term of 21 years from 1.7.1955 and renewable for a further term of 21 years less 3 days and was further extended to 30.6.2047. The lease conditions of the subject Lot contain, inter alia, the following restrictions:
  - (i) the lot owner will not erect or allow to be erected on the demised premises any building other than a factory for the manufacturing uses and ancillary offices and quarters for persons essential to the safety and security of the building;
  - (ii) the lot owner will not use or allow to be used the demised premises for any purpose other than the purposes of the said factory for manufacturing uses; and
  - (iii) the lot owner will not during the continuance of this demise use exercise or follow in or upon the demised premises or any part thereof offensive trade.
- (c) The proposed use of the Premises for shop and services is in breach of the lease conditions. Should the Board approve the planning application, the applicant is required to apply to his office for a temporary waiver/lease modification to give effect to the proposal. However, there is no guarantee at this stage that a temporary waiver/lease modification would be approved. If the application for temporary waiver/lease modification is approved by LandsD in the capacity as landlord at his sole discretion, it will be subject to those terms and conditions including the payment of waiver fee/premium as appropriate as imposed by LandsD. Moreover, the registered ownership of the Premises could not be traced from the Land Registry. If the Premises form part of the common area of the existing building erected on the Lot, agreement(s) of all the owner(s) of the Lot are required for submitting the said application for temporary waiver/lease modification and, if approved, all the owner(s) are required to jointly execute the relevant document.
- (d) His office does not have any record on 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.

### Building Matters

9.1.2 Comments of the Chief Building Surveyor/Kowloon, Buildings Department (CBS/K, BD):

- (a) No objection in principle to the application.
- (b) Under Section 14(2) of the Buildings Ordinance (BO), no person shall

commence or carry out any building works without having first obtained approval and consent from the Building Authority (BA) before the commencement of works unless they are exempted under section 41 of BO, or fall within minor works under the Building (Minor Works) Regulation.

- (c) The applicant is advised to appoint an Authorized Person to check and ensure that the proposed shop and services should in all aspects comply with BO and its allied regulations.
- (d) Detailed comments under BO would be provided at the building plan (BP) submission stage.
- (e) “No objection in-principle” to the planning application should not be construed as an acceptance of any unauthorized building work (UBW) on the Premises under BO. Enforcement action may be taken by BA to effect their removal in accordance with BD’s enforcement policy against UBW as and when necessary.

### Fire Safety

#### 9.1.3 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 BPs; 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 aggregated 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 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 2011 which is administered by BD.

### Traffic

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

- (a) No in-principle objection to the application at nil provision of car parking and L/UL spaces given the following observations:
  - (i) small and constrained site layout;
  - (ii) conveniently located to mass transport/public transport services; and
  - (iii) small scale of development.

- (b) The applicant should note 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 or 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 23.4.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 14.5.2019, no public 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 proposed uses would not induce adverse fire safety and environmental impacts. The applied use at the Premises is considered generally in line with the planning intention.
- 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 applied 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 of BD have no objection to or no adverse comment on the application.
- 11.4 As advised by D of FS, the building, which is protected with a sprinkler system, is subject to a maximum permissible limit of 460m<sup>2</sup> for aggregated commercial floor area on G/F. As mentioned in paragraph 6.1 above, there is no similar application in respect of G/F of the subject building. Should the Committee approve the application, the aggregated commercial floor area will be about 30.47m<sup>2</sup>, which is within the maximum permissible limit of 460m<sup>2</sup>. Direct access is provided for the Premises with street frontage abutting onto King 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.

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 above, 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 31.5.2021, 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 a proposal for fire safety measures, including the provision of fire services installations and equipment at the application premises and means of escape separated from the industrial portion of 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 (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 II**.

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**

<b>Appendix I</b>	Application form received on 15.4.2019
<b>Appendix II</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Internal layout plan of the application premises as submitted by the applicant



- Drawing A-2** Ground floor plan of the subject building as submitted by the applicant
- Plan A-1** Location Plan
- Plan A-2** Site Plan
- Plans A-3 to A-4** Site Photos

**PLANNING DEPARTMENT  
MAY 2019**