

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K14/779

- Applicant** : Fuji Properties Limited, represented by Landscape Surveyors Limited
- Premises** : Unit A, G/F, Yip Win Factory Building, 10 Tsun Yip Lane, Kwun Tong, Kowloon
- Floor Areas** : About 155m²
- Lease** : (a) Kun Tong Inland Lot (KTIL) No. 71
(b) Restricted to industrial purposes excluding offensive trades
- 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 200 meters above Principal Datum, or the PR and height of the existing building(s), whichever is the greater]
- Application** : Shop and Services

The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Shop and Services’ use (**Drawing A-1**). The Premises occupies portion of the G/F of an industrial building (the IB), namely Yip Win Factory Building, at 10 Tsun Yip Lane, 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 A majority portion of the Premises is the subject of previous application No. A/K14/421 (with a smaller floor area of about 126.9m²) for retail shop use which was approved by the Metro Planning Committee (the Committee) of the Board on 15.8.2003 (**Plan A-3**).
- 1.3 According to the applicant, the Premises is currently for workshop use; however, in our recent inspection, the Premises is occupied by a local provisions store (**Plan A-5**).
- 1.4 In support of the application, the applicant has submitted the application form with a supporting planning statement (**Appendix I**) which was received on 4.10.2019.

1.5 Plan showing the G/F of the IB and 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 the Supporting Planning Statement at **Appendix I** are summarized as follows:

- (a) proposed 'Shop and Services' use conforms to the planning intention of "OU(B)" zone and is compatible with the existing IB and the adjoining uses;
- (b) Retail use at the Premises was approved by the Committee in 2003 and the approval of the current application would not cause any inconvenience to occupiers of the IB;
- (c) Fire services installations would be provided to fulfil the requirements of the Fire Services Department (FSD) and the proposed use would not induce adverse fire safety impact;
- (d) no adverse impacts on traffic, loading/unloading (L/UL) activity, drainage, sewerage and environmental aspects; and
- (e) similar planning applications for 'Shop and Service' uses at the G/F of the same building and other buildings in the area were approved.

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 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 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 area on G/F of an existing industrial or I-O building

with and without sprinkler systems should not exceed 460m² and 230m² respectively. 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 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

The Premises is the subject of two previous planning applications (Nos. A/K14/198 and 421) (**Plan A-3**). Application No. A/K14/198 (with the same floor area as the current application) for proposed restaurant use was rejected by the Committee on 19.5.1995 when the IB was previously zoned "Industrial" mainly on the fire safety considerations. Application No. A/K14/421 (with a smaller floor area than the current application) for proposed retail shop use was approved by the Committee on 15.8.2003 mainly on the grounds that the proposed use was in line with the planning intention of "OU(B)" zone, and would not have adverse implications on fire safety, car parking provision or environmental aspects.

6 Similar Applications

- 6.1 Apart from the previous two applications as mentioned in paragraph 5 above, there were two similar applications (Applications No. A/K14/674 and 744) on the G/F of the IB for converting the same car parking space (about 11.98m²) for temporary 'Shop and Services (Real Estate Agency)' use for five years (**Plan A-3**). The former application was approved with conditions by the Committee on 20.7.2012 for a period of five years up to 20.7.2017. A renewal application (No. A/K14/744) for the same temporary use was rejected by the Committee on 14.7.2017 on the grounds that the proposed conversion of a parking space for commercial use would adversely affect the parking provision of the IB.
- 6.2 According to TPB PG-No. 22D, the 'Shop and Services' use under application is subject to the limit on aggregate commercial floor area. Disregarding Application No. A/K14/421 which largely overlaps with the current application, should the current application be approved, the aggregated approved commercial floor area on G/F of the IB would be about 155m², which is within the maximum permissible limit of 460m² in a building with a sprinkler system in accordance with TPB PG-No. 22D.
- 6.3 There are a total of 210 similar applications for 'Shop and Services' use on G/F of industrial or I-O buildings under the "OU(B)" zone in Kwun Tong Business Area (KTBA). 176 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 (Plans A-1 and A-2 and photos on Plans A-4 and A-5)

7.1 The Premises:

- (a) occupies a portion of the G/F of Yip Win Factory Building, and is currently used as local provisions store; and
- (b) has a direct entrance fronting Tsun Yip Lane which is separated from the entrance to other floors of the IB.

7.2 The subject building:

- (a) is a 15-storey IB built in 1980 and is equipped with sprinkler system; and
- (b) has the following existing uses:

Floor	Main Uses
G/F	The Premises (currently used as shop and services) ^[1] , fast food shop ^[2] , and carpark
1-14/F	Canteen (1/F), office (1/F, 2/F, 4/F, 6/F, 9/F to 13/F), warehouse (2/F, 12/F & 14/F), shop and services ^[3] (all except 3/F), school ^[3] (3/F & 7/F), commercial bathhouse/massage establishment ^[3] (8/F), art studio (1/F and 9/F), religious institution ^[3] (7/F), locked units (all except 1/F)

^[1] Majority portion of the Premises overlaps with the application premises of a planning permission No. A/K14/421 for approved retail shop use

^[2] No record of planning approval granted for this use.

^[3] Use not allowed unless in the purpose-designed non-industrial portion on the lower floors of the building and such uses are separated from the industrial or I-O use located above by a buffer floor(s) of non-hazardous occupancy, and no industrial uses are located within that non-industrial portion.

7.3 The surrounding areas have the following characteristics:

- (a) the neighbouring buildings along Tsun Yip Lane are mainly industrial or I-O buildings;
- (b) to the northeast of the IB along Kwun Tong Road are three commercial/office developments along Kwun Tong Road, namely, Kwun Tong View, One Pacific Centre and APM Millennium City 5 (**Plan A-2**);
- (c) to the west across Tsun Yip Lane are the CLP Power Substations; and
- (d) MTR Kwun Tong Station is approximately 150m to the east (**Plan A-1**).

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 (LandsD):

- (a) No objection to the application.
- (b) The Premises falls within KTIL No. 71 ("the Lot") which is held under Government Lease dated 1.9.1966 for a term of 21 years commencing from 1.7.1955 and renewable for 21 years less 3 days and was further extended to 30.6.2047. The lease conditions of the Lot contain, inter alia, the following restrictions:
 - (i) The Lot is restricted to industrial purposes excluding offensive trades;
 - (ii) No building shall be erected other than a factory and ancillary offices and quarters for persons essential to the safety and security of the building; and
 - (iii) Adequate space shall be provided for parking or L/UL of motor vehicles to the satisfaction of the Director of Lands and will not use the spaces so provided for any other purpose.
- (c) The proposed 'Shop and Services' use 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 the 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. Please note that the applicant has submitted a temporary waiver application for permitting the Premises to be used as a convenience store (retail shop), which is being handled by his office.
- (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.

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 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 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 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 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 Surveyor/Kowloon, (CBS/K, BD):

He has no objection in principle to the application and advises that detailed comments under the Buildings Ordinance would be provided at the building plan submission stage.

Traffic

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

- (a) As the Premises is conveniently located close to public transport services and is with a constrained layout, the applied use is in small scale, and that L/UL facilities are available on the G/F of the IB, he has no in-principle objection to the application from traffic engineering perspective.
- (b) He advises the applicant 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) Director of Food and Environmental Hygiene
- (d) Chief Highway Engineer/Kowloon, Highways Department;
- (e) Commissioner of Police; and
- (f) District Officer (Kwun Tong), Home Affairs Department.

10 Public Comments Received During Statutory Publication Period

On 11.10.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 1.11.2019, 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 used as a local provisions store. 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 IB is protected with a sprinkler system and is subject to a maximum permissible limit of 460m² for aggregated commercial floor area on G/F. Should the Committee approve the application, the aggregated commercial floor area will be about 155m², which is within the maximum permissible limit of 460m². Direct access is provided for the Premises with street frontage at Tsun Yip Lane. 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 as detailed in paragraph 12(a) below.
- 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, the Planning Department has no objection to the application.

12.2 Should the Committee decide to approve the application, no time clause on commencement is proposed as the 'Shop and Services' use under application is already in operation. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval conditions

- (a) the submission and implementation of fire safety measures within six months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 29.5.2020; and
- (b) if the above planning condition (a) 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 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

Appendix I	Application form received on 4.10.2019
Appendix II	Recommended advisory clauses
Drawing A-1	Floor Plan indicating the location of Premises
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Previous and Similar Applications
Plans A-4 and A-5	Site Photos