

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

**APPLICATION NO. A/K14/785**

- Applicant** : CHAN Sui Wah represented by APP Building Consultancy Limited
- Premises** : Workshop No. 2, G/F, Crown Industrial Building, 106 How Ming Street, Kwun Tong, Kowloon
- Floor Area** : About 20.9m<sup>2</sup>
- Lease** : (a) Kun Tong Inland Lot (KTIL) No. 26 (the Lot)  
(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 12.0 and maximum building height (BH) of 160 meters above Principal Datum, or the PR and height of the existing building, whichever is the greater]
- Application** : Proposed Shop and Services (Money Exchange)

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Shop and Services (Money Exchange)’ use. The Premises occupies a workshop unit on G/F of an industrial building (the IB), namely Crown Industrial Building, at 106 How Ming 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, which would require planning permission from the Town Planning Board (the Board).
- 1.2 The Premises is the subject of two previous planning applications (No. A/K14/685 and A/K14/701) submitted by the same applicant for ‘Shop and Service (Real Estate Agency)’ use which were approved with conditions by the Metro Planning Committee (the Committee) of the Board on 19.7.2013 and 11.7.2014 respectively. The planning permissions were revoked on 19.1.2014 and 11.10.2014 respectively due to non-compliance with the approval condition on the submission and implementation of fire services installations (FSIs) within the specified time limits.
- 1.3 According to the applicant, the Premises is currently for real estate agency use; however, in our recent site inspection, the Premises is occupied by a money exchange without valid planning permission (**Plan A-5**).

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application form received on 17.4.2020 (Appendix I)
- (b) Supporting Planning Statement and drawings received on 17.4.2020 (Appendix Ia)
- (c) Further Information for minor clarification on floor area (Appendix Ib) (Appendix Ib) which was received on 1.6.2020

## 2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are set out in the supplementary planning statement at **Appendix Ia**, and summarized as follows:

- (a) The proposed use is considered fully in line with the planning intention of “OU(B)” zone, which aims to phase out industrial use by encouraging a mix of non-polluting industrial, office and other commercial uses. The proposed use is non-polluting and hence aligns with the planning intention of progressive transformation and upgrading of the area.
- (b) All ground floor units of the subject IB are occupied by shop uses, thus interface problem with the adjoining uses is not expected should this application be approved. The proposed use is compatible with the surrounding industrial/I-O buildings, as the G/F of which are predominately ‘Shop and Services’ uses with planning approvals.
- (c) The proposed use meets the demand for money exchanging services and supports the commercial activities in the area.
- (d) The commercial floor area on the G/F of the IB does not exceed 460m<sup>2</sup>. With the fire safety measures to be implemented, any fire hazard is not anticipated.
- (e) It is not envisaged that the proposed use will generate excessive traffic and environmental impact.
- (f) There are similar planning approvals approved by the Board in recent years in the vicinity.

## 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 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 Hong Kong Planning Standards and Guidelines requirements, and all other statutory or non-statutory requirements of relevant Government departments must also be met.

## 5. Previous Applications

The Premises is the subject of two previous planning applications (Nos. A/K14/685 and A/K14/701) (**Plan A-3**) for ‘Shop and Services (Real Estate Agency)’ use submitted by the same applicant which were approved with conditions by the Committee on 19.7.2013 and 11.7.2014 respectively mainly on the ground that the proposed use was in conformity with the guidelines of developments within “OU(B)” zone. The planning permissions were revoked on 19.1.2014 and 11.10.2014 respectively due to non-compliance with approval conditions on fire safety measures within the specified time limits.

## 6. Similar Applications

6.1 The Committee has so far considered a total of four applications (including the previous applications mentioned in paragraph 5 above) for ‘Shop and Services’ use on G/F of the IB (**Plan A-3**). These four applications were approved with conditions on fire safety measures by the Committee, of which three of them were lapsed or revoked due to non-compliance of the approval condition. Details are shown in the table below.

Application No.	Unit No.	Applied Uses	Floor Area (m <sup>2</sup> )	Date of MPC/TPB Meeting	Decision
A/K14/685	2	Shop and Services (Real Estate Agency)	20.9	19.7.2013 (Revoked)	Approved with Conditions

Application No.	Unit No.	Applied Uses	Floor Area (m <sup>2</sup> )	Date of MPC/TPB Meeting	Decision
A/K14/695	1	Shop and Services (Bakery and Cake Shop)	15.62	4.4.2014 (Lapsed)	Approved with Conditions
A/K14/701	2	Shop and Services (Real Estate Agency)	23.1	11.7.2014 (Revoked)	Approved with Conditions
A/K14/770	1	Shop and Services (Money Exchange)	<b>15.62</b>	17.5.2019	Approved with Conditions
<b>Total Approved Floor Area*: 15.62m<sup>2</sup></b>					

\* Excluded floor area in cases of which planning permission have lapsed or been revoked.

- 6.2 Should the current application be approved, the resultant total aggregated commercial floor area on G/F of the IB would be 36.52m<sup>2</sup> (i.e. 15.62m<sup>2</sup> + 20.9m<sup>2</sup>), which is within the maximum permissible limit of 460m<sup>2</sup> on G/F of an industrial building with sprinkler system.
- 6.3 There are a total of 212 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). 178 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 to A-2 and photos on Plans A-4 to A-5)**

7.1 The Premises:

- (a) occupy a workshop unit on G/F of Crown Industrial Building, and is currently used as a money exchange (Plans A-4 to A-5); and
- (b) has a direct entrance fronting How Ming Street which is separated from the entrance to other floors of the IB.

7.2 The subject building:

- (a) is a 16-storey IB built in 1989 and is equipped with sprinkler system; and
- (b) has the following existing uses:

Floor	Main Uses
G/F	<b>The Premises</b> (currently money exchange), shop and services (another money exchange <sup>[*]</sup> ), lift lobby, carpark and L/UL area
1/F to 15/F	Canteen (2/F), office (2/F to 14/F), godown (5/F & 8/F), shop and services <sup>[#]</sup> (8/F to 10/F & 12/F), place of recreation, sports or culture <sup>[#]</sup> (6/F & 15/F), eating place <sup>[#]</sup> (13/F & 15/F), locked units (all except 9/F and 14/F)

[\*] Covered by planning approval No. A/K14/770.

[#] Uses 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 uses located above by buffer floor(s) of non-hazardous occupancy, and no industrial uses are located within that non-industrial portion. In view of the above, these uses are not allowed in the IB.

7.3 The surrounding areas have the following characteristics:

- (a) the neighbouring buildings along How Ming 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, fast food counters, bank and money exchange shop; and
- (c) MTR Kwun Tong Station is approximately 200m 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**

- (a) Comments of the District Lands Officer/Kowloon East, Lands Department (LandsD):
  - (a) No objection to the application.
  - (b) The Premises falls within KTIL No. 26 (“the Lot”) which is restricted, inter alia, to industrial purposes excluding offensive trades.
  - (c) The Premises is being used as a ‘Money Exchange’ shop, which is in breach of the lease conditions. Warning letter of 20 February 2019 was issued against the Premises. Without prejudice to Government’s right to take appropriate lease enforcement action against the breach, should the Board approve the planning application, the applicant is required to apply to his office for a waiver/lease modification to give effect to the proposal. However, there is no guarantee at this stage that the waiver/lease modification would be approved. If the application for waiver/lease modification is approved by LandsD in the capacity as landlord at its sole discretion, it will be subject to those terms and conditions including the payment of waiver fee/premium as appropriate as imposed by LandsD.

### **Fire Safety**

- (b) Comments of the Director of Fire Services (D of FS):
  - (a) No objection in-principle to the application subject to:

- (i) FSIs 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 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” 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**

- (c) Comments of the Chief Building Surveyor/Kowloon, Buildings Department (CBS/K, BD):
  - (a) No objection in principle to the application.
  - (b) All building works/ alterations and additions (A&A)/ change of use are subject to compliance with the Buildings Ordinance (BO). The applicant is advised to appoint an Authorized Person to ensure any building works/ A&A works/ change of use are in compliance with BO.
  - (c) Under section 14(1) of the BO, no person shall commence or carry out any building works without having first obtained approval and consent from the BA before commencement of works unless they are exempted under section 41 of the BO or fall within minor works under the Building (Minor Works) Regulation.
  - (d) 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 approval should not be construed as an acceptance of any UBW on the application site under the BO.
  - (e) The applicant should note the 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.
  - (f) Detailed comments under the BO will be given at the building plan submission stage.

### **Traffic Aspect**

(d) Comments of the Commissioner for Transport (C for T):

- (a) He has no in-principle objection to the application from traffic engineering perspective, given that the Premises is conveniently located to mass transport/public transport services, the small and constrained site layout, small scale of development, and L/UL facilities are available on the G/F of the IB.
- (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 site 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/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 24.4.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 15.5.2020, no public comment was received.

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

- 11.1 The application is to seek planning permission for ‘Shop and Services (Money Exchange)’ use at the Premises, which is currently occupied by the applied use without valid planning permission. 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 of the “OU(B)” zone.
- 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, 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, which is subject to a maximum permissible limit of 460m<sup>2</sup> for aggregated commercial floor area on G/F. Should the Committee approve the application, the aggregated commercial

floor area on G/F of the IB will be 36.52m<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 at How Ming 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 as detailed in paragraphs 12.2(a) and (b) below.

- 11.5 As the shop and services has been in operation on the Premises and that the previous permissions granted to the same applicant for the same use were revoked twice due to non-compliance with the approval condition on the submission and implementation of the FSIs within the specified time limits, a shorter compliance period of three months and six months for the submission and implementation of proposal for FSIs respectively is recommended to monitor the progress of compliance should the Committee decide to approve the application. Moreover, the applicant would be advised that should he fail to comply with the approval condition again resulting in the revocation of the planning permission, sympathetic consideration might not be given to any further application.
- 11.6 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 (Money Exchange)' 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 of a proposal on the fire safety measures within three months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 12.9.2020;
- (b) in relation to (a) above, the implementation of the 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 12.12.2020;
- (c) if any of the above planning conditions (a) or (b) is not complied with by the specified dates, 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 17.4.2020
<b>Appendix Ia</b>	Supporting planning statement received on 17.4.2020
<b>Appendix Ib</b>	Further Information received on 1.6.2020
<b>Appendix II</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Floor plan indicating the location of the Premises
<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Previous and similar applications in respect of G/F of the subject building
<b>Plans A-4 and A-5</b>	Site photos

**PLANNING DEPARTMENT  
JUNE 2020**