

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

**APPLICATION NO. A/K14/788**

- Applicant** : Kin Hing Industrial Company Limited, represented by Centaline Property Agency Limited
- Premises** : G/F, Peter Leung Industrial Building, 103 Wai Yip Street, Kwun Tong, Kowloon
- Floor Area** : About 226.315m<sup>2</sup>
- Lease** : (a) Kwun Tong Inland Lot (KTIL) No. 658  
(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 100 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 (**Drawing A-1**). The Premises occupies a factory unit on G/F of an industrial building (IB), namely Peter Leung Industrial Building (the Building), at 103 Wai 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, which would require planning permission from the Town Planning Board (the Board).
- 1.2 According to the applicant, the Premises is currently for factory use; however, in our recent site inspection, the Premises is occupied by a shop with car beauty services without planning permission (**Plan A-4**).
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 14.5.2020. **(Appendix I)**
  - (b) Further Information (FI) vide letter received on 9.6.2020 enclosing responses to departmental comments and layout plan showing vehicular access, parking and **(Appendix Ia)**

loading/unloading (L/UL) area of the Building.

- 1.4 Plans showing the G/F of the Building and layout of the Premises submitted by the applicant are 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 application form at **Appendix I** are summarized as follows:

- (a) in line with Energizing Kowloon East initiative and the Government policy for revitalizing industrial premises;
- (b) the proposed 'Shop and Services' use can meet the increasing demand for retail spaces in the locality;
- (c) the proposed 'Shop and Services' use is not intended to attract customers from other areas, thus no adverse traffic impact is anticipated;
- (d) sufficient means of escape with unobstructed exit routes and sufficient lighting is provided, and there is a street frontage abutting Wai Yip Street providing direct access for fire-fighting; and
- (e) similar planning applications for 'Shop and Service' use at the G/F of other IBs in the vicinity have been 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 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. 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**

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 Building.
- 6.2 There are a total of 213 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). 179 of them were approved with conditions and the remaining 34 were rejected by the Metro Planning Committee (Committee) of the Board, 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-3 to A-4)

7.1 The Premises:

- (a) occupies a factory unit on the G/F of Peter Leung Industrial Building, and is currently used as a retail shop selling car accessories with car beauty services;
- (b) has a direct entrance fronting Wai Yip Street which is separated from the entrance to other floors of the IB, and an exit leading to the back alley where L/UL activities take place; and
- (c) there is a cockloft above part of the Premises serving as an ancillary office of the retail shop, and the floor area has not been included in the application (**Plan A-4**).

7.2 The subject building:

- (a) is a 13-storey IB built in 1975 and is not fully equipped with sprinkler system; and

(b) has the following existing uses:

Floor	Main Uses
G/F	<b>The Premises</b> (currently used as retail shop with car beauty services <sup>[1]</sup> ), lift lobby, L/UL area and caretaker's room.
1-12/F	Office (3/F, 8/F, 11/F to 12/F), warehouse (4/F), locked units (1/F to 2/F, 5/F to 7/F, 9/F to 10/F)

<sup>[1]</sup> No record of planning approval granted for this use.

7.3 The surrounding areas have the following characteristics:

- (a) the neighbouring buildings along Wai Yip Street and Tai Yip Street are mainly industrial or I-O buildings;
- (b) one existing commercial/office development, namely, One Bay East to the west across Wai Yip Street (**Plan A-2**);
- (c) the G/F units of nearby buildings are mainly used as retail shops, eating places, factories/godowns and motor services; and
- (d) MTR Ngau Tau Kok Station is approximately 360m to the northeast (**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 KUIL No. 658 ("the Lot") which is held under Conditions of Sale No. UB9638 dated 16.3.1970 ("the Conditions"). The Conditions contain, inter alia, the following salient restrictions:
  - (i) The Lot is restricted to industrial and/or godown purposes excluding any offensive trades;

- (ii) A maximum height of 170 feet above principal datum; and
  - (iii) The Lot is further subject to development conditions including but not limited to type of building restrictions, non-building area up to vertical clearance of 15 feet from ground level and no right of vehicular access from or to Wai Yip Street.
- (c) The proposed 'Shop and Services' use is found in conflict with the existing lease conditions. Should the planning application be approved by the Board, 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 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 any administration fee and waiver fee/premium, considered appropriate by LandsD.
  - (d) The floor area of the Premises and other details submitted by the applicant have not been verified. The applicant is required to demonstrate the dimensions and calculation of the floor area when the lease modification/waiver application is submitted.
  - (e) According to his recent inspection, the Premises is using Wai Yip Street for vehicular ingress/egress purpose which is in breach of the lease conditions. His office will take appropriate lease enforcement action against the existing breach pursuant to the prevailing practice.

### **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 not fully protected with a sprinkler system so that the maximum permissible aggregated commercial floor area on G/F is **230m<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 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, Buildings Department (CBS/K, BD):

- (a) No objection in-principle to the application.
- (b) Roller shutters are installed at the approved exits (**Drawing A-1**). The applicant is reminded that the required 2 nos. of exits should not be closed with roller shutters. Furthermore, the doors or gates should be capable of being readily opened in the direction of the exit route.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) Under Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers (PNAP) APP-47, the BA has no powers to give retrospective approval or consent for any UBW.
- (g) Detailed comments under the BO would be given at the building plan submission stage.

### **Traffic**

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

- (a) He has no in-principle objection to the application from traffic engineering perspective as the Premises is conveniently located close to public transport services and is small in size with a constrained layout, the applied use is in small scale, and that L/UL facilities are available on the G/F of the Building.
- (b) He advises the applicant to 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 22.5.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 12.6.2020, 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 shop without 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.
- 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 is not fully protected with a sprinkler system and is subject to a maximum permissible limit of 230m<sup>2</sup> for aggregated commercial floor area on G/F. Should the Committee approve the application, the aggregated commercial floor area will be about 226.315m<sup>2</sup>, which is within the maximum permissible limit of 230m<sup>2</sup>. Direct access is provided for the Premises with street frontage at Wai 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 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 10.1.2021; 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

<b>Appendix I</b>	Application form received on 14.5.2020
<b>Appendix Ia</b>	FI vide letter received on 9.6.2020
<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>Plans A-3 to A-4</b>	Site Photos