

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

**APPLICATION NO. A/K14/792**

- Applicant** : Business Hub Limited
- Premises** : Portion of G/F, How Ming Factory Building, 99 How Ming Street, Kwun Tong, Kowloon
- Floor Area** : about 459.36m<sup>2</sup>
- Lease** : (a) Kwun Tong Inland Lot (KTIL) No. 506  
(b) Restricted to industrial and/or godown 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 the maximum building height of 160 metres above Principal Datum or the PR and the height of the existing building(s), whichever is the greater]
- Application** : Proposed Shop and Services (about 230m<sup>2</sup>)  
Proposed Shop and Services (Bank, Fast Food Shop, Local Provisions Store and/or Electrical Shop) (about 229.36m<sup>2</sup>)

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) partly for the proposed ‘Shop and Services’ use (about 230m<sup>2</sup>) and partly for the proposed ‘Shop and Services (Bank, Fast Food Shop, Local Provisions Store and/or Electrical Shop)’ uses (about 229.36m<sup>2</sup>) (**Drawing A-1**). The Premises occupies a portion of G/F of an existing industrial building (IB), namely How Ming Factory Building (the Building), at 99 How Ming Street, Kwun Tong, which falls within an area zoned “OU(B)” on the approved Kwun Tong (South) OZP No. S/K14S/22 (**Plan A-1**). According to the 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 occupied by a vehicle repair workshop, but according to our recent site inspection, the Premises is currently vacant.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 15.7.2020. **(Appendix I)**

- (b) Further Information (FI) vide email received on 14.8.2020 in response to departmental comment<sup>#</sup> **(Appendix Ia)**
- (c) FI vide emails received on 24.8.2020 and 25.8.2020 clarifying the floor areas of the proposed uses with a revised G/F layout plan<sup>#</sup> **(Appendix Ib)**
- (d) FI vide email received on 29.9.2020 enclosing a revised G/F layout plan<sup>#</sup> **(Appendix Ic)**

<sup>#</sup> *accepted and exempted from publication and recounting requirements*

- 1.4 According to the applicant, the Premises would be subdivided into two portions for the proposed uses with new partition wall with 2-hour fire resistance. Ground floor layout plan of the Building showing the indicative layout and the commercial floor areas of the proposed uses of the Premises as submitted by the applicant are at **Drawing A-1**.
- 1.5 On 4.9.2020, the Metro Planning Committee (the Committee) agreed to defer making a decision on the application for one month as requested by the applicant in order to allow sufficient time for preparation of FI in response to departmental comments. With FI received on 29.9.2020 (**Appendix Ic**), the application is scheduled for consideration by the Committee at this meeting.

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

The justifications put forth by the applicant in support of the application as set out in the application form and the FIs at **Appendices I to Ic** are summarized as follows:

- (a) To meet local demand for shop and services in the district.
- (b) The proposed shop and service use conforms to the planning intention, and is compatible with surrounding land uses.
- (c) The Building has 16 no. loading/ unloading (L/UL) spaces. Most customers are expected to be workers in the neighbourhood. It is five minutes walking distance from Kwun Tong and Ngau Tau Kok MTR stations. Additional traffic generated should be minimal and would not induce traffic impact to the surrounding.
- (d) It has no adverse air quality and sewerage impacts to the locality.

## **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 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) 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 G/F of an existing industrial/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 merits. 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 Applications**

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 215 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). 181 of them were approved with conditions and the remaining 34 were rejected by the 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 and A-4)

7.1 The Premises:

- (a) occupies a portion of G/F of How Ming Factory Building (**Plan A-2**), and is currently left vacant (**Plan A-4**); and
- (b) has a direct entrance fronting How Ming Street which is separated from the entrance to other floors of the Building.

7.2 The Building:

- (a) is a 11-storey IB built in 1970 and is not fully protected with sprinkler system (**Plan A-3**); and
- (b) has the following existing uses:

Floor	Main Uses
G/F	<b>Premises</b> (vacant), workshops, lift lobby, management office
1/F	Eating Place <sup>#</sup> , car park, loading/unloading spaces
2/F – 10/F	Warehouse (2/F, 5/F – 6/F, 9/F), shops and services (7/F, 10/F) <sup>#</sup> , office (6/F, 7/F, 10/F), place of recreation, sports or culture (7/F) <sup>^</sup> , vacant units (3/F, 4/F)

<sup>^</sup> No record of planning approval granted for these uses.

<sup>#</sup> Uses not allowed as they are not in the purpose-designed non-industrial portion on the lower floors of the Building, nor separated from the industrial uses located above by a buffer floor(s) 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 How Ming Street are mainly mix of industrial or I-O and commercial/office (C/O) buildings.
- (b) to the immediate west is a hotel development (i.e. Holiday Inn Express), to its immediate north and east are a telephone exchange and two electricity substations respectively, and across How Ming Street to the south is a C/O development (i.e. Landmark East) (**Plan A-2**);
- (c) the G/F units of the nearby buildings are mainly used as retail shops, eating places, fast food shops, bank and money exchange shops; and
- (d) MTR Kwun Tong Station is approximately 300m to the east.

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) The Premises falls within KTIL No. 506 (“the Lot”), which is restricted to industrial and/or godown purposes excluding offensive trade.
- (b) The proposed ‘Shop and Services’ use would be in conflict with the lease conditions. Should the Board approve the planning application, the applicant is required to apply to his office for 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 his sole discretion, it will be subject to those terms and conditions including the payment of waiver fee/premium as considered appropriate to be imposed by LandsD. Approval by the Board shall not prejudice the government’s right to take enforcement action against any breach identified at the Premises.
- (c) Upon receipt of the application of waiver/lease modification, if applied by the owner of the Premises, he/she is required to prove the ownership and demonstrate the dimensions and calculation of the floor area in all respect to the satisfaction of LandsD.

### 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 ‘Shop and Services’ use in portion of the proposed location (230m<sup>2</sup>) should be counted up to the aggregated commercial floor area whilst the ‘Shop and Services (Bank/ Fast Food Shop, Local Provisions Store and/or Electrical Shop)’ use in remaining portion of the proposed location (229.36m<sup>2</sup>) should not be counted up to the aggregated commercial floor area.

- (b) 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).
- (c) 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) All building works/ alterations and additions (A&A) works/ 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) For unauthorized building works (UBW) erected on private land/buildings, enforcement action may be taken by the Building Authority 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.
- (d) Detailed comments under the BO can only be provided at the building plan submission stage.
- (e) His other comments are at **Appendix II**.

### **Traffic**

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

- (a) He has no in-principle objection to the application from traffic engineering perspective as the Premises is small in size and conveniently located close to mass transport/ public transport services, applied use is small in scale, and that L/UL facilities are available in the Building.
- (b) He advises the applicant to note that C for T has the right 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/no comments on the application:

- (a) Chief Highway Engineer/Kowloon, Highways Department;
- (b) Chief Engineer/Mainland South, Drainage Services Department;
- (c) Chief Engineer/Construction, Water Supplies Department;
- (d) Commissioner of Police; and
- (e) District Officer (Kwun Tong), Home Affairs Department.

## **10. Public Comments Received During Statutory Publication Period**

On 24.7.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 14.8.2020, one public comment supporting the application without providing any reason was received (**Appendix III**).

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

11.1 The application is to seek planning permission for the proposed ‘Shop and Services’ (about 230m<sup>2</sup>) and ‘Shop and Services (Bank, Fast Food Shop, Local Provisions Store and/or Electrical Shop)’ (about 229.36m<sup>2</sup>) uses 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 use would not induce adverse fire safety and environmental impacts. Hence, the proposed uses at the Premises are considered generally in line with the planning intention.

11.2 The KTBA is being transformed into commercial uses with many similar applications for ‘Shop and Services’ use approved for the G/F units of other industrial and I-O buildings in the vicinity of the Premises. The proposed uses are compatible with the changing land use character of the area.

11.3 The proposed uses at the Premises comply with TPB PG-No. 22D in that it would not induce adverse fire safety and environmental impacts on the developments within the Building and the adjacent areas. Relevant Government departments consulted including D of FS, C for T and CBS/K, BD have no objection to/no adverse comment on the application

11.4 As set out in TPB PG-No. 22D, 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 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, including bank, fast food shop, electrical shop, and local provisions store. According to D of FS, the Building is not fully protected with a sprinkler system and the maximum permissible aggregate commercial floor area on G/F is 230m<sup>2</sup>. While the proposed ‘Shop and Services’ use (with floor area of 230m<sup>2</sup>) is subject to the above limit whereas, such limit does not apply to the proposed ‘Shop and Services (Bank, Fast Food Shop, Electrical Shop and/or Local Provisions Store) use’ (with floor area of 229.36m<sup>2</sup>). Should the Committee approve the application, the aggregated commercial floor area

on G/F of the Building will be 230m<sup>2</sup>, which is within the maximum permissible limit as set out in TPB PG-No. 22D. Direct accesses are provided for the Premises with street frontage at How Ming Street. In this regard, D of FS has no in-principle objection to the application subject to approval conditions on the submission and implementation of fire safety measures as recommended in paragraphs 12.2(a) and (b) below.

11.5 The supporting public comment is noted.

## **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 23.10.2022, 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 on the fire safety measures before operation of the proposed 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 the operation of the proposed 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 IV**.

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 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.

## **11. Attachments**

**Appendix I**

Application form received on 15.7.2020



<b>Appendix Ia</b>	First FI received on 14.8.2020
<b>Appendix Ib</b>	Second FI received on 24.8.2020 and 25.8.2020
<b>Appendix Ic</b>	Third FI received on 29.9.2020
<b>Appendix II</b>	Other technical comments from Government department
<b>Appendix III</b>	Public comment received during the statutory publication period
<b>Appendix IV</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Location plan of the Premises shown on G/F of the subject building as submitted by the Applicant
<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plans A-3 and A-4</b>	Site photos

**PLANNING DEPARTMENT  
OCTOBER 2020**