

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K5/808

- Applicant** : Goldcome Investment Limited represented by APL Architects and Consultants Limited
- Premises** : Portion of Workshop A1, G/F, Kimberland Centre, 55 Wing Hong Street, Cheung Sha Wan, Kowloon
- Floor Area of Premises** : About 273.765m²
- Lease** : (a) New Kowloon Inland Lot (NKIL) No. 2835 RP
(b) By a Modification Letter dated 29.11.1960, the Premises is permitted for general industrial and godown purposes
- Plan** : Approved Cheung Sha Wan Outline Zoning Plan (OZP) No. S/K5/37
- Zoning** : “Other Specified Uses” annotated “Business” (“OU(B)”)
- [Restricted to a maximum plot ratio (PR) of 12 and a maximum building height (BH) of 130mPD, or the PR/BH of the existing building, whichever is the greater.]
- Application** : Proposed Shop and Services

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for proposed ‘Shop and Services’. The Premises occupies a portion of Workshop A1 on the G/F of an existing industrial building namely Kimberland Centre, which falls within an area zoned “OU(B)” on the approved Cheung Sha Wan OZP No. S/K5/37 (**Plan A-1**). According to Schedule II of the Notes of the OZP for the “OU(B)” zone applicable to industrial or industrial-office (I-O) building, ‘Shop and Services (not elsewhere specified)’ on the G/F of an industrial building requires planning permission from the Town Planning Board (the Board).
- 1.2 As shown on the floor plan on **Drawing A-2**, the Premises is accessible directly from Wing Hong Street. The layout plan and ground floor plan showing the Premises, as submitted by the applicant, are at **Drawings A-1** and **A-2** respectively. The Premises is currently under renovation.

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

- (a) Application form with attachments received on 8.7.2019 **(Appendix I)**
- (b) Letter dated 10.9.2019 enclosing a traffic review and revised floor plans **(Appendix Ia)**
(accepted but not exempted from publication and recounting requirements)
- (c) Letter dated 7.11.2019 providing clarifications on the car parking provision and the proposed use of the Premises **(Appendix Ib)**

1.4 The application was originally scheduled for consideration by the Committee on 6.9.2019. Upon requests by the applicant, the Committee agreed on 6.9.2019 and 1.11.2019 to defer making a decision on the application for two months each in order to allow sufficient time for the applicant to prepare further information. The applicant subsequently submitted further information on 7.11.2019 **(Appendix Ib)**. The application is scheduled for consideration by the Committee of the Board at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are set out at **Appendices I to Ib**. They are summarized as follows:

- (a) the proposed use is a road-side retail shop mainly serving the local community. The proposed use is compatible with the surroundings and it is in line with the planning intention of the “OU(B)” zone;
- (b) there is a demand for provision of shop and services in the neighbourhood and the convenient location of the Premises is suitable for such use;
- (c) the Premises is provided with adequate fire service installations and sprinkler systems and the floor area of the proposed use would not exceed the limit of 460m² for aggregate commercial floor area on the ground floor. The provision of the means of escape would be completely separated from the industrial portion; and
- (d) the proposed use would not induce adverse environmental impact. Regarding the public comments **(Appendix II)**, the Premises will not be developed as a tourist spot, and the Premises and 1/F to 3/F of the subject industrial building are owned by different owners. The provision of car parking spaces and loading/unloading (L/UL) facilities within the subject industrial building with and without the proposed shop and services remains the same and meets the requirements of Hong Kong Planning Standards and Guidelines (HKPSG).

The results of the traffic review show that the proposed use would not result in adverse traffic impact (**Appendices Ia and Ib**).

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 are 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 areas on the ground floor of an existing industrial/I-O building with and without sprinkler systems should as a general principle 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 loading/unloading 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 at the Premises.

6. Similar Applications

- 6.1 There is no similar planning application for ‘Shop and Services’ use in respect of G/F of the subject industrial building.
- 6.2 According to TPB PG-No. 22D, the proposed ‘Shop and Services’ use under the application is subject to a maximum permissible limit of 460m² for aggregate commercial floor area on G/F of the subject industrial building with a sprinkler system. If the application is approved, the aggregate commercial floor areas approved (by the Committee) on G/F of the subject industrial building will be 273.765m².
- 6.3 Since 2001, the Committee has considered 149 planning applications for various ‘Shop and Services’ uses on the G/F of the industrial and I-O buildings within the “OU(B)” zone in the Cheung Sha Wan Industrial/Business Area. The Committee approved 139 of these applications while rejecting ten applications mainly for fire safety reasons.

7. The Site and Its Surrounding Areas

(Plans A-1, A-2 and A-2a and Photos on Plans A-3 and A-4)

- 7.1 The Premises:
- (a) occupies a portion of Workshop A1 on G/F of Kimberland Centre;
 - (b) have direct frontage to Wing Hong Street; and
 - (c) is currently under renovation.
- 7.2 The subject industrial building has the following characteristics:
- (a) is a 32-storey industrial building (including one level of basement for car parking and L/UL spaces) completed in 2018 and equipped with a sprinkler system; and
 - (b) is currently used for the following purposes:

Floor	Main Uses
Basement	Car parking and L/UL spaces
G/F	The Premises , vacant unit and L/UL spaces
1/F to 33/F (4/F, 13/F, 14/F and 24/F omitted)	Industrial-related offices/trading firms and vacant units

- 7.3 The surrounding areas have the following characteristics:
- (a) it is an established industrial/business area in Cheung Sha Wan (which was rezoned from “Industrial” to “OU(B)” in 2001 and 2002);

- (b) the subject industrial building is surrounded mainly by industrial and I-O buildings with 'Shop and Service' uses on G/F; and
- (c) it is easily accessible by various modes of public transport with MTR Lai Chi Kok Station located at about 300m to the south of the subject industrial building (**Plan A-1**).

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 summarised as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer/Kowloon West, Lands Department (DLO/KW, LandsD):

- (a) the Premises falls within NKIL 2835 RP ("the Lot") which is governed by the Conditions of Exchange No. 4171 dated 15.8.1940 as varied or modified by a Modification Letter dated 29.11.1960 ("the Conditions") for general industrial and godown purposes. The proposed shop and services use and sales outlet for the tourists mentioned in the public comments received at the Premises are not permitted under the Conditions; and
- (b) the owner of the Premises through his agent applied to LandsD for a temporary waiver to permit shop and services use at the Premises. However, there is no guarantee that the wavier application will be approved. The application will be considered by LandsD acting in the capacity as the landlord at its sole discretion. If such application is approved, it would be subject to such terms and conditions including, among others, the payment of wavier fee and administrative fee as may be imposed by LandsD.

Building Matters

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

- (a) no in-principle objection to the application;
- (b) the applicant is advised to engage an Authorised Person to ensure that any building works/change in use are implemented in compliance with the Buildings Ordinance (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 Building Authority 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) detailed comments under the BO would be provided at the building plan submission stage; and
- (e) attention of the applicant should be drawn that “no objection” to the application should not be constructed as an acceptance of any unauthorised building works (UBW) on the Premises under the Buildings Ordinance. Enforcement action may be taken by the Building Authority to effect their removal in accordance with the 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 in-principle objection 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 subject unit;
- (b) the building is provided with a sprinkler system so that the maximum permissible aggregated commercial floor area on the G/F is 460m² in accordance with TPB PG-No. 22D. The proposed 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 “Code of Practice for Fire Safety in Buildings” which is administered by the Building Authority; and

- (d) the applicant's attention should be 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.

Traffic

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

- (a) no in-principle objection to the application given the proposed change of 273.762m² gross floor area from industrial use to retail use will not significantly change the provision according to the HKPSG requirements and the carparking/loading/unloading provisions have been approved in the building plan submission; conveniently located to mass transport/public transport services; and small scale of development; and
- (b) the applicant should be reminded that C for T has the rights to impose, alter or cancel any car parking, loading/unloading 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 (CE/C, WSD);
- (b) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (c) Chief Highway Engineer/Kowloon, Highways Department (CHE/K, HyD);
- (d) Commissioner of Police (C of P); and
- (e) District Officer (Sham Shui Po), Home Affairs Department (DO(SSP), HAD).

10. Public Comments Received During Statutory Publication Period

On 16.7.2019 and 17.9.2019, the application was published for public inspection. During the three-week statutory public inspection periods ending on 6.8.2019 and 8.10.2019, six public comments from individuals, of which four were submitted in the form of a standard letter, were received objecting to the application¹. The major objection reasons are that the proposed shop and services use at the Premises (possibly together with the 1/F to 3/F of the subject industrial building, which may be owned by the applicant) would be for serving tourists and cause adverse traffic impact due to the increase in vehicular and pedestrian

¹ The six public comments were received on the submission (**Appendix I**) during the statutory public inspection period from 16.7.2019 to 6.8.2019 while there was no public comment received on the further information (**Appendix Ia**) during the statutory public inspection period from 17.9.2019 to 8.10.2019.

traffic and insufficient on-street coach parking spaces and L/UL facilities. Besides, the existing internal transport facilities of the subject industrial building could not meet the requirements of HKPSG on the provision of coach parking spaces and L/UL facilities (**Appendix II**).

11. Planning Considerations and Assessments

- 11.1 The application is to seek planning permission to use the Premises for proposed 'Shop and Services' use. The Premises is currently under renovation. The planning intention of the "OU(B)" zone is intended primarily for general business uses. It allows greater flexibility in the use of the existing industrial or I-O buildings provided that the use would not result in adverse fire safety or environmental impacts. The proposed use at the Premises is considered generally in line with the planning intention.
- 11.2 The Cheung Sha Wan Industrial/Business Area is being transformed into commercial/business uses 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 proposed use is considered compatible with the changing land use character of the area. Moreover, the proposed use is considered not incompatible with other uses of the same industrial building which mainly comprises industrial-related offices/trading firms on the upper floors.
- 11.3 The proposed use in general complies with the Town Planning Board Guidelines for Development within "OU(B)" zone (TPB PG-No. 22D) in that it would not induce adverse fire safety, traffic and infrastructural impacts on the developments within the subject industrial building and the adjacent areas. Relevant Government departments including D of FS, C for T, CBS/K of BD, CE/C of WSD and CE/MS of DSD have no comment on/no objection to the application.
- 11.4 As confirmed by D of FS, the subject industrial building is protected by a sprinkler system and subject to a maximum permissible limit of 460m² for aggregate commercial floor area on G/F in accordance with TPB PG-No. 22D. If the proposed 'Shop and Services' use is approved, the aggregate commercial floor area approved by the Committee on the G/F of the subject industrial building will be 273.765m², which is within the maximum permissible limit. To address D of FS's concern on fire safety aspect, an approval condition in paragraph 12.2(a) to require the submission and implementation of the proposal for fire safety measures to the satisfaction of D of FS is recommended.
- 11.5 Six public comments were received, which are mainly related to the concerns that the proposed use would mainly be for serving tourist and thus would cause adverse traffic impact. The applicant has clarified in the further information (**Appendices Ia** and **Ib**) that the proposed shop and services is a road-side retail shop mainly serving the local community and it would not be developed into a tourist spot; the Premises and 1/F to 3/F of the subject industrial building are under different ownership and the proposed use will not result in adverse traffic impact. The concerned departments including C for T have no adverse comment on or objection to the application. The departmental comments in paragraph 9 and the planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, 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 29.11.2021, 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 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 (a) is not complied with before 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 III**.

- 12.3 There is no strong planning 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 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 with attachments
Appendix Ia	Letter dated 10.9.2019 enclosing a traffic review and revised floor plans
Appendix Ib	Letter dated 7.11.2019 providing clarifications on the car parking provision and the proposed use of the Premises
Appendix II	Public comments
Appendix III	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Ground Floor Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-2a	Ground Floor Plan of Kimberland Centre
Plans A-3 and A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2019**