

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

**APPLICATION NO. A/K5/809**

- Applicant** : East Global Properties Limited represented by Grandmax Surveyors Limited
- Premises** : Portion of Workshop A2, G/F, Block A, Hong Kong Industrial Centre, 489-491 Castle Peak Road, Cheung Sha Wan, Kowloon
- Floor Area** : About 125.2m<sup>2</sup>
- Lease** : (a) New Kowloon Inland Lot (NKIL) No. 3515 s.C, s.D and s.F  
(b) Restricted for factory purposes
- Plan** : Approved Cheung Sha Wan Outline Zoning Plan (OZP) No. S/K5/37
- Zoning** : “Other Specified Uses” annotated “Business 2” (“OU(B)2”)  
  
[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. A minimum setback of 3.5m from the lot boundary abutting Castle Peak Road shall be provided.]
- 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’. The Premises occupies portion of Workshop A2 on the G/F of an existing industrial building (Block A of Hong Kong Industrial Centre), which falls within an area zoned “OU(B)2” 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 The Premises is part of the subject of a previous application (No. A/K5/668) (**Plan A-2a**) submitted by the same applicant for proposed temporary shop and services (showroom for garments), which was approved with conditions for a period of three years by the Metro Planning Committee (the Committee) of the Board on 27.2.2009. The approval condition in relation to the submission and

implementation of fire service installations proposal before operation of the use was complied with. The planning permission was expired on 27.2.2012. The Premises is currently used as retail shops for money exchange, selling of drinks and cakes without valid planning permission.

- 1.3 As shown on the floor plan on **Drawing A-2**, the Premises can be accessed from Castle Peak Road and Tung Chau West Street. The layout plan and the ground floor plan showing the Premises, as submitted by the applicant, are at **Drawings A-1 and A-2**.
- 1.4 In support of the application, the applicant has submitted the following document:  
Application form with attachments received on 2.8.2019 (Appendix I)

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

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

- (a) the use under application is in line with the planning intention of the “OU(B)” zone, compatible with the surrounding locality under transformation, and beneficial for the locality;
- (b) there is demand in the area for shop and services;
- (c) the use under application would not induce any adverse environmental impact nor fire risk to the building. The applicant will engage fire services consultant to review and prepare fire services proposal for the Premises if necessary; and
- (d) similar applications for shop and services use 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 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 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 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 Application

The Premises is the subject of a previous planning application (No. A/K5/668) (**Plan A-2a**) submitted by the same applicant for proposed temporary ‘Shop and Services (showroom for garments)’, which was approved with conditions for a period of three years by the Committee on 27.2.2009. The approval condition in relation to the submission and implementation of fire service installations before operation of the use was complied with. The planning permission was expired on 27.2.2012.

## 6. Similar Applications

6.1 The Committee has so far considered a total of 15 applications for ‘Shop and Services’ uses on the G/F of the subject industrial building (**Plan A-2a**). Apart from the previous application mentioned in paragraph 5 above, 12 applications (Nos. A/K5/556, 571, 664, 670, 674, 708, 719, 752, 761, 766, 767 and 802) were approved with conditions, while two applications (Nos. A/K5/584 and 771) were rejected. Application No. A/K5/584 was rejected on the ground that the applicant had not demonstrated that the proposed conversion of loading/unloading spaces to a showroom would not adversely affect the loading/unloading facilities in the subject industrial building, while application No. A/K5/771 was rejected on the grounds that the proposed use does not comply with TPB PG-No. 22D as the total floor area accountable for the aggregate commercial floor area had exceeded the maximum permissible limit of 460m<sup>2</sup>, and would set an undesirable precedent for

similar applications. The details of the approved applications are shown in the table below.

Application No.	Unit No.	Proposed Use	Floor Area (m <sup>2</sup> )	Date of Consideration	Decision
Uses applicable for the maximum permissible limit of 460m <sup>2</sup> for aggregate commercial floor area on G/F of an industrial building (with sprinkler systems)					
A/K5/571	A8 (Portion)	Shop and Services (Retail Shop)	4	24.9.2004 (Lapsed)	Approved with Conditions
A/K5/664	A1 (Portion)	Shop and Services (Fast Food Shop, retail shop, showroom)	121.05 (9.55m <sup>2</sup> for retail shop applicable for the aggregate commercial floor area)	19.12.2008 (Revoked)	Approved with Conditions
A/K5/708	A9 & A10	Proposed Shop and Services	400	2.9.2011 (Lapsed)	Approved with Conditions
A/K5/752	A6	Shop and Services	117.9	9.5.2014	Approved with Conditions
A/K5/761	A5 & A6	Shop and Services	<b>259.225</b>	2.1.2015	Approved with Conditions
A/K5/767	A8 (Portion)	Proposed Shop and Services	<b>200</b>	17.7.2015	Approved with Conditions
<b>Total Approved Commercial Floor Area*:</b>			<b>459.225 m<sup>2</sup></b>		
Uses <b>not</b> applicable for the maximum permissible limit of 460m <sup>2</sup> for aggregate commercial floor area on G/F of an industrial building (with sprinkler systems)					
A/K5/556	A3 (portion)	Shop and Services (showroom for garments)	80.19	27.2.2004	Approved with Conditions
A/K5/668	A2	Proposed Temporary Shop and Services (showroom for garments) for a period of three years	215.68	27.2.2009 (Expired)	Approved with Conditions
A/K5/670	A9 & A10	Shop and Services (showroom for garments)	400	13.3.2009	Approved with Conditions
A/K5/674	A1	Shop and Services (showroom)	129.11	8.5.2009 (Lapsed)	Approved with Conditions
A/K5/719	A6	Shop and Services (showroom)	117.9	6.7.2012 (Revoked)	Approved with Conditions

<b>Application No.</b>	<b>Unit No.</b>	<b>Proposed Use</b>	<b>Floor Area (m<sup>2</sup>)</b>	<b>Date of Consideration</b>	<b>Decision</b>
A/K5/766	A7 (Portion) & A8 (Portion)	Proposed Shop and Services (Local Provisions Store and/or Fast Food Counter)	123	17.7.2015 (Lapsed)	Approved with Conditions
A/K5/802	A2 (Portion)	Shop and Services (Fast Food Shop)	13.2	21.12.2018	Approved with Conditions

*\*The total floor areas have excluded the floor areas in overlapping premises and approved cases of which planning permissions have been lapsed / revoked.*

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. Should the Committee approve this Application, the total approved commercial floor area on the G/F of the subject industrial building would be increased to 584.425m<sup>2</sup>, which exceeds the maximum permissible limit of 460m<sup>2</sup> on the G/F of an industrial building with sprinkler systems.

6.3 Since 2001, the Committee has considered 148 planning applications for various ‘Shop and Services’ uses on the G/F of the industrial buildings 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 nine applications mainly for fire safety reasons.

**7. The Site and Its Surrounding Areas (Plans A-1 to A-2a and photos on Plans A-3 and A-4)**

7.1 The Premises:

- (a) occupies portion of workshop A2 on the G/F of an existing industrial building (Block A of Hong Kong Industrial Centre);
- (b) has direct frontage to Castle Peak Road to the north and Tung Chau West Street to the west; and
- (c) is currently used as shops for money exchange, selling of drinks and cakes.

7.2 The subject industrial building has the following characteristics:

- (a) is a 13-storey industrial building completed in 1982 and equipped with sprinkler systems; and

- (b) is currently used for the following purposes:

<b>Floor</b>	<b>Main Uses</b>
G/F	<b>The Premises</b> , canteen, showrooms, food kiosks, restaurant <sup>1</sup> , courier services counter <sup>1</sup> , fast food shops, shops <sup>1</sup> and car park
1/F to 12/F	Industrial-related offices/trading firms

<sup>1</sup> There is no record of planning approvals granted for the restaurant, courier services counter and a shop (bakery) (**Plan A-2a**).

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 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 within about 100m walking distance (**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 No. 3515 s.C, s.D and s.F which is governed under the Conditions of Sale No. UB4268 dated 1.4.1948 as varied or modified by Conditions of Exchange (and Modification) No. 4481 dated 28.8.1950 (hereinafter collectively referred to as “the Conditions”) for factory purposes. By a No-objection Letter dated 30.9.1982, the Premises is further permitted for banking purposes; and

- (b) the shop and services use under application at the Premises does not comply with the Conditions nor the No-objection Letter. If the planning application is approved by the Committee, the owner has to apply to LandsD for a waiver or No-objection letter for the use under application. However, there is no guarantee that the approval will be given. If the application is approved by LandsD acting in the capacity as the private landlord at its sole discretion, it will be subject to payment of fee/premium and imposition of other terms as may be appropriate.

### **Fire Safety**

#### 9.1.2 Comments of the Director of Fire Services:

- (a) objection to the application; and
- (b) the 'Shop and Services' use under application should be counted up to the aggregate commercial floor area. As the aggregate commercial floor area on the G/F of the building would exceed 460m<sup>2</sup> should this application be approved, the application is not supported from fire safety point of view.

### **Building Matters**

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

- (a) no in-principle objection to the application;
- (b) the approved use of the Premises is workshop;
- (c) the applicant is advised to engage an Authorized Person (AP) to ensure that any alterations/change in use are implemented in compliance with the Buildings Ordinance (BO);
- (d) under s.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 s.41 of the BO, or fall within Minor Works under the Building (Minor Works) Regulation;
- (e) detailed comments under the BO would be provided at the building plan submission stage; and
- (f) attention of the applicant should be drawn that no objection to the application should not be construed as an acceptance of any unauthorised building works (UBW) on the Premises under the BO. 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.

## **Traffic**

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

- (a) no in-principle objection to the application at nil provision of car parking and loading/unloading spaces given the following observations:
  - (i) small and constrained layout;
  - (ii) conveniently located to mass transport/public transport services;
  - (iii) 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 16.8.2019, the application was published for public inspection. During the three-week statutory public inspection period ending on 6.9.2019, no public comment was received.

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

11.1 The application is to seek planning permission to use the Premises for 'Shop and Services'. The Premises is currently used as shops for money exchange, selling of drinks and cakes without valid planning permission. It is located within the "OU(B)" zone which is intended for general business uses. The "OU(B)" zone



allows greater flexibility in the use of existing industrial or I-O buildings provided that the use would not result in adverse fire safety and environmental impacts. The 'Shop and Services' use at the Premises under application is considered generally in line with this 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 comprise canteen, showrooms, shops and car park on the G/F and industrial-related offices/trading firms, warehouses and workshops on the upper floors.
- 11.3 According to D of FS, the 'Shop and Services' use under application should be counted up to the maximum permissible aggregate commercial floor area on the G/F of an existing industrial building, which is  $460\text{m}^2$  for the subject building as it is protected with sprinkler systems. The existing total commercial floor area for commercial use already approved by the Committee on the G/F of the subject industrial building is  $459.225\text{m}^2$ . Should the Committee approve this application, the total approved commercial floor area on the G/F of the subject industrial building will be increased to  $584.425\text{m}^2$  ( $459.225\text{m}^2 + 125.2\text{m}^2$ ), which exceeds the maximum permissible limit of  $460\text{m}^2$  for industrial building with sprinkler systems as set out in the TPB PG-No. 22D. D of FS objects to the application from fire safety point of view.
- 11.4 Other relevant Government departments including CBS/K, BD and C for T have no objection to/no adverse comment on this application.
- 11.5 No public comment on the application was received.

## 12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department does not support the application for the following reasons:
  - (a) the 'Shop and Services' use under application does not comply with the Town Planning Board Guidelines for Development within "Other Specified Uses (Business)" Zone (TPB PG-No. 22D) as the total floor area accountable for the aggregate commercial floor area on ground floor of the subject industrial building would exceed the maximum permissible limit of  $460\text{m}^2$  for an industrial or industrial-office building with sprinkler systems; and
  - (b) the application is not acceptable from fire safety point of view.
- 12.2 Alternatively, should the Committee decide to approve the application, no time clause for commencement of development is proposed as the 'Shop and Services'

use under application is already in existence. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission and implementation of fire safety measures, including the provision of fire service installations and equipment in the subject premises and means of escape completely separated from the industrial portion, within six months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 20.3.2020; and
- (b) if the above planning condition 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**.

**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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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.

**14. Attachments**

<b>Appendix I</b>	Application form with attachments received on 2.8.2019
<b>Appendix II</b>	Advisory clauses
<b>Drawing A-1</b>	Layout plan submitted by the applicant
<b>Drawing A-2</b>	Ground floor plan submitted by the applicant
<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plan A-2a</b>	Similar applications on G/F of the subject building
<b>Plans A-3 and A-4</b>	Site photos