

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K5/799

- Applicant** : Brilliant Rose (Hong Kong) Limited represented by PlanArch Consultants Limited
- Premises** : Ground Floor (Portion), Hop Hing Industrial Building, 704 Castle Peak Road, Cheung Sha Wan, Kowloon
- Floor Area** : 460 m²
- Lease** : (a) New Kowloon Inland Lot (NKIL) 2118
(b) Restricted for industrial and/or godown purposes excluding offensive trades, and canteen is permitted
- Plan** : Approved Cheung Sha Wan Outline Zoning Plan (OZP) No. S/K5/37
- Zoning** : “Other Specified Uses” annotated “Business 1” (“OU(B)1”)
- [Restricted to a maximum plot ratio (PR) of 12 and a maximum building height (BH) of 130 metres above Principal Datum, or the PR/BH of the existing building, whichever is the greater. A minimum setback of 2m from the lot boundary abutting Castle Peak Road shall be provided.]
- Application** : Proposed Shop and Services and Wholesale Trade

1. The Proposal

- 1.1 The applicant seeks planning permission to use a portion of the ground floor (G/F) of an existing industrial building (Hop Hing Industrial Building) (the Premises) for proposed ‘Shop and Services and Wholesale Trade’. It falls within an area zoned “OU(B)1” on the approved Cheung Sha Wan OZP No. S/K5/37 (**Plan A-1**)
- 1.2 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 and ‘Wholesale Trade’ in an industrial building within “OU(B)” zone require planning permission from the Town Planning Board (the Board).
- 1.3 According to the submission, the Premises can be accessed from Castle Peak Road or alternatively through the carpark at the back of the Premises with access on Wing Hong Street (**Drawing A-2**). All car parking or loading/unloading activities

for the proposed uses will be carried out within the carpark of the subject building. The applicant also expresses that the proposed uses of shop and services and wholesale trade will not interfere or mix up with other industrial/office use on the upper floors of the subject industrial building.

- 1.4 The location plan of the Premises and layout plan showing the Premises on G/F of the subject building, as submitted by the applicant, are at **Drawings A-1 and A-2**.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 27.7.2018 **(Appendix I)**
 - (b) Planning Statement received on 27.7.2018 **(Appendix Ia)**
 - (c) Applicant's letter received on 27.7.2018 providing clarification of the proposal **(Appendix Ib)**
 - (d) Applicant's letter dated 30.8.2018 providing responses to departmental comments **(Appendix Ic)**
 - (e) Applicant's letter dated 14.9.2018 providing clarification **(Appendix Id)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are set out in **Appendices I and Ia to Id**. They can be summarized as follows:

- (a) the proposed uses of shop and services and wholesale trade are in line with the planning intention of the "OU(B)" zone, as it will contribute to phasing out industrial uses in Cheung Sha Wan area, allowing for general business uses and creating employment;
- (b) the total floor area for the proposed use of 460m² does not exceed the permitted aggregate commercial floor area of 460m² on G/F of the subject industrial building which is equipped with sprinkler system and with separate access for the Premises. This complies with the requirements as stated in the Town Planning Board Guidelines for Development within "OU(B)" Zone (TPB PG-No. 22D). No adverse fire hazard is anticipated;
- (c) the rest of the ground floor unit, apart from the Premises, will be accommodated with uses that are always permitted under the "OU(B)" zone, which do not contribute to the 460m² aggregate commercial floor areas limit. No polluting and hazardous industrial uses will be allowed in the whole unit on the G/F. The proposed uses are therefore compatible with the land uses on the G/F of the building;
- (d) the subject industrial building is surrounded by a number of industrial or office buildings. Ground floor spaces of a number of existing industrial buildings have been turned into retail or service trade uses. As such, the proposed uses are compatible with the surrounding land uses;
- (e) the proposed uses only involve clean and neat activities which will not cause any environmental pollution;

- (f) the proposed uses will provide impetus to phasing out industrial activities of the industrial building for more general business uses to meet the planning intention of the area; and
- (g) there are quite a number of similar cases of applications approved by the Board for commercial uses within the “OU(B)” zone on the Cheung Sha Wan OZP. Approval of the current application is not unprecedented.

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 (FSD) 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. 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 loading/unloading spaces should be provided in accordance with the requirements of the Hong Kong Planning Standards and Guidelines

(HKPSG), 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’ and/or ‘Wholesale Trade’ use in respect of G/F of the subject building within the “OU(B)” zone on the Cheung Sha Wan OZP. According to TPB PG-No.22D, the proposed uses are subjected to a maximum permissible limit of 460m² for aggregate commercial floor area on G/F of the subject building with a sprinkler system. If the current application (No. A/K5/799) for shop and services and wholesale trade is approved, the aggregate commercial floor areas approved (by the Committee) on G/F of the subject buildings will be 460m², which complies with TPB PG-No. 22D.
- 6.2 Since 2001, the Committee has considered 141 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 132 of these applications while rejecting 9 applications mainly for fire safety reasons.
- 6.3 Since 2001, there have been five applications[@] in “OU(B)” zone for ‘Wholesale Trade’ use in Cheung Sha Wan Industrial/Business Area considered by the Board (**Plan A-1**). Four of them are located on G/F of the industrial buildings and were approved with conditions. The remaining case was located on the upper floor of an industrial building and was rejected by the Committee due to fire safety concern.

7. The Premises 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 portion of the unit on G/F of an existing industrial building (Hop Hing Industrial Building) at the junction of Castle Peak Road and Kom Tsun Street; and
- (b) is currently vacant.

7.2 The subject industrial building:

- (a) was completed in 1980 and is equipped with a sprinkler system;

[@] Application Nos. A/K5/562, A/K5/568, A/K5/641, A/K5/700 were approved with conditions, while application No. A/K5/791 was rejected.

- (b) has a total of 13 storeys;
- (c) the G/F is partly vacant and partly occupied by the carpark and loading/unloading area with access on Wing Hong Street (**Plan A-2a**); and
- (d) the current uses by floor are summarised as follows:

Floor	Current Use
G/F	Application premises , vacant units, carpark and loading/unloading area
UG/F, 1/F to 11/F	Industrial-related offices, trading firms, shop and services*, vacant/locked units

* Not allowed on upper floors of industrial building

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 by industrial and I-O buildings. Tsing Sha Highway is located to its west, separating the “OU(B)” area from Lai Chi Kok Planning Area; and
- (c) it is easily accessible by various modes of public transport with MTR Lai Chi Kok Station located at about 150m southeast of the subject industrial building (**Plans A-1 and A-2**).

8. Planning Intention

The planning intention of “OU(Business)” 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) She has no objection to the application.

- (b) The Premises falls within NKIL 2118 (“the Lot”) which is governed under the Government Lease dated 3.10.1938 as varied or modified by a Deed of Variation of Crown Lease dated 25.7.1975 and a waiver letter dated 9.4.2015 (“the lease conditions”). The Premises is restricted for industrial and/or godown purposes excluding offensive trades and canteen is permitted. The proposed ‘Shop and Services and Wholesale Trade’ use is not permitted under the lease conditions.
- (c) If the application is approved by the Board, the owner of the Premises has to apply to LandsD for a waiver or no objection letter to permit the proposed ‘Shop and Services and Wholesale Trade’ use (“the waiver/NOL application”). However, there is no guarantee that the waiver/NOL application will be approved. Such application, if received by LandsD, will be considered by LandsD acting in the capacity as the private landlord at its sole discretion. In the event any such application is approved, it would be subject to such terms and conditions including, among others, the payment of waiver fee/premium 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) He has no in-principle objection to the application subject to comments (b) and (c):
- (b) Under section 14(1) of the Buildings Ordinance (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 BO, or fall within minor works under the Building (Minor Works) Regulations.
- (c) The applicant is advised to appoint an Authorized Person (AP) to check and ensure the following are in compliance with the BO and its allied regulations:
 - (i) adequate means of escape and fire resisting construction should be provided in accordance with the Building (Planning) Regulation 41(1) and Building (Construction) Regulation 90 and the Code of Practice for Fire Safety in Buildings 2011 (FS Code);
 - (ii) access and facilities for persons with a disability should be provided in accordance with Building (Planning) Regulations 72 and Design Manual: Barrier Free Access 2008; and

- (iii) provision of adequate sanitary fitments in accordance with the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulation.
- (d) The use of the Premises as shown on the approved G/F plan dated 14 August 1980 is “workshop”. Alterations and Additions plans were approved on 27 March 2013 for changing portion of G/F to canteen including the area of the Premises. However, no consent to commence works has been issued and no notice of commencement of works has been received.

Traffic

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

- (a) He has no in-principle objection to the application.
- (b) C for T has the right 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.

Fire Safety

9.1.4 Comments of the Director of Fire Services (D of FS):

- (a) He has no in-principle objection to the application provided that :
 - (i) fire service installations and equipment being provided to the satisfactory of his department. Detailed fire services requirement 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 aggregate commercial floor area on 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 Building*” which is administered by the Building Authority.
- (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.

Environmental Hygiene

9.1.5 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) She has no comment on the application.
- (b) Regarding the public comment on environmental hygiene and air quality concerns arising from possible provision of catering-related service uses at the Premises, the applicant should be reminded that relevant food licence or permit must first be obtained from the Food and Environmental Hygiene Department (FEHD) and comply with requirements of concerned departments (including FEHD, BD, etc.) and relevant legislation should the Premises be intended for food business including the installation of mechanical ventilating system.

9.2 The following Government departments consulted have no objection to/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 3.8.2018, the application was published for public inspection. During the three-week statutory public inspection period ending on 24.8.2018, two public comments were received. One of them submitted by a company expresses view about the disclosure of personal information, which is irrelevant to the application. The other one submitted by a District Council member expresses objection to the application because catering-related service uses at the Premises may affect the environmental hygiene and air quality of the subject industrial building, and generate nuisance to other users of the building (**Appendix II**).

11. Planning Considerations and Assessments

11.1 The applicant seeks planning permission to use a portion of the G/F of an existing industrial building within “OU(B)1” zone for proposed ‘Shop and Services and Wholesale Trade’. 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 and

environmental impacts. The proposed 'Shop and Services and Wholesale Trade' 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 similar applications for 'Shop and Services' and 'Wholesale Trade' approved on G/F units of other industrial and I-O buildings in the vicinity of the Premises. The proposed uses under application are compatible with the changing land use character of the area. Moreover, the uses of shop and services and wholesale trade are considered not incompatible with other uses of the same industrial building including industrial-related offices and trading firms on the upper floors.
- 11.3 The proposed uses in general comply with the TPB Guidelines for Development within the "OU(B)" Zone (TPB PG-No. 22D) in that it would not induce adverse fire safety, traffic and infrastructural impacts to the development within the subject building and the adjacent areas. Relevant Government departments consulted including FSD, BD, TD, LandsD, WSD and DSD have no adverse comment on/no objection to the application.
- 11.4 As confirmed by D of FS, the subject industrial building is equipped with 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 current application is approved, the aggregate commercial floor area approved by the Committee on the G/F of the subject building will be 460m², which is still within the maximum permissible limit of 460m² as stated above.
- 11.5 Regarding the public comment about the concerns on environmental hygiene and air quality caused by potential catering-related service uses, it should be noted that such uses would need to comply with the relevant licensing and departments' requirements and subject to control of relevant regulation as stated in paragraph 9.1.5 above.

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 21.9.2020, 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 provision of fire service installations and equipment and a means of escape separated from the industrial portion before operation of the 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 operation of the 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 received on 27.7.2018
Appendix Ia	Planning Statement received on 27.7.2018
Appendix Ib	Applicant's letter received on 27.7.2018 providing clarification of the proposal
Appendix Ic	Applicant's letter dated 30.8.2018 providing responses to departmental comments
Appendix Id	Applicant's letter dated 14.9.2018 providing clarification
Appendix II	Public comments received
Appendix III	Recommended advisory clauses
Drawing A-1	Location Plan submitted by the applicant
Drawing A-2	Layout Plan submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-2a	Ground Floor Plan of Hop Hing Industrial Building
Plan A-3 and A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2018**