

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

**APPLICATION NO. A/K13/315**

- Applicant** : Hong Kong Breast Cancer Foundation (HKBCF) Limited
- Premises** : Unit A, G/F, Unify Commercial Industrial Building, 31 Tai Yip Street, Kwun Tong, Kowloon
- Total Floor Area** : About 450 m<sup>2</sup>
- Lease** : (a) New Kowloon Inland Lot (NKIL) 5745  
(b) Restricted to industrial or godown purposes or both, excluding any offensive trade
- Plan** : Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan (OZP) No. S/K13/29
- Zoning** : “Other Specified Uses” annotated “Business” (“OU(B)”) [subject to a maximum plot ratio (PR) of 12.0 and a maximum building height of 100 metres above Principal Datum (mPD), or the PR and the height of the existing building(s), whichever is the greater]
- Application** : Proposed Shop and Services (Medical Consulting Services)

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for proposed ‘Shop and Services (Medical Consulting Services)’ use. The Premises, currently vacant, occupies Unit A on the G/F of an existing industrial building, namely Unify Commercial Industrial Building at 31 Tai Yip Street, Kwun Tong, Kowloon. The subject building falls within an area zoned “OU(B)” on the draft Ngau Tau Kok and Kowloon Bay OZP No. S/K13/29 (**Plan A-1**). According to Schedule II of the Notes of the OZP for the “OU(B)” zone, ‘Shop and Services (not elsewhere specified)’ on the G/F of an industrial or industrial-office (I-O) building requires planning permission from the Town Planning Board (the Board). According to the applicant, the proposed use at the Premises comprises medical consulting rooms (for lymphoedema care service centre) and ancillary office.

- 1.2 The Premises is the subject of a previous application (No. A/K13/294) (**Plan A-3**) for ‘Shop and Services’ use submitted by a different applicant. The application was approved with conditions by the Metro Planning Committee (the Committee) on 17.10.2014, but already lapsed since the proposed use was not commenced.
- 1.3 In support of the application, the applicant has submitted the following documents :
- (a) Application form received on 16.9.2019 (**Appendix I**)
  - (b) Replacement pages vide applicant’s letter dated 19.9.2019 (**Appendix Ia**)
- 1.4 Plans showing the location and floor layout of the application premises within the subject building submitted by the applicant are shown in **Drawings A-1** and **A-2**.

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

The justifications put forth by the applicant in support of the application are detailed in section 9 of the application form at **Appendix I**. They are summarized as follows:

- (a) the HKBCF is a non-profit charitable organisation dedicated to mitigating the threat of breast cancer to the local community through education, patient support as well as research and advocacy. HKBCF’s existing centres cannot satisfy the increasing demand for lymphoedema care services;
- (b) the centre, under planning application, will provide accessible and affordable breast cancer-related lymphoedema and medical consulting and care services to breast cancer patients and survivors; and
- (c) the location of the Premises near Mass Transit Railway Ngau Tau Kok Station is suitable for the proposed use and has got road access.

## **3. Compliance with the “Owner’s Consent/Notification” Requirements**

The applicant is not a “current owner” of the Premises but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by obtaining consent from the owners 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 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 merit. 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**

The Premises is the subject of a previous planning application No. A/K13/294 for ‘Shop and Services’ use which was approved with conditions by the Committee on 17.10.2014 (**Plan A-3**). Subsequently, two s.16A applications No. A/K13/294-1 and A/K13/294-2 were approved for extension of time for commencement of approved development until 17.4.2017 and 17.7.2017 respectively. The planning permission has lapsed since the approved use was not commenced.

## **6. Similar Applications**

6.1 Since 2001, the Committee has considered 101 planning applications for various shop and services uses on the G/F of the industrial buildings within the “OU(B)” zone in the Kowloon Bay Business Area. The Committee approved 94 of these applications while rejected 7 applications for fire safety reasons.

- 6.2 The previous application No. A/K13/294 is also the only similar application for ‘Shop and Services’ use on the G/F of the subject building. According to TPB PG-No. 22D, the ‘Shop and Services (Medical Consulting Services)’ use under application is subject to the limit on aggregate commercial floor area. However, since the Application No. A/K13/294 has already lapsed as mentioned in para. 5 above, there is currently no approved use applicable for the limit on aggregate commercial floor area. Should the Committee approve the planning application, the total aggregate commercial floor area of the subject building will be 450m<sup>2</sup>.

## 7. The Premises and Its Surrounding Areas (Plans A-1 to A-5)

7.1 The Premises:

- (a) occupies Unit A on the G/F of Unify Commercial-Industrial Building at 31 Tai Yip Street in Kwun Tong (**Plan A-3**);
- (b) abuts Wai Yip Street with direct entrances separated from the entrance to other floors of the existing industrial building (**Plans A-3 and A-3**); and
- (c) is currently vacant (**Plan A-5**).

7.2 The subject building is:

- (a) a 10-storey industrial building including a basement at the southern tip of Kowloon Bay Business Area;
- (b) abuts Wai Yip Street, Shun Yip Street and Tai Yip Street (**Plan A-2**);
- (c) equipped with a sprinkler system; and
- (d) the current uses by floor are summarised as follows:

<b>Floor</b>	<b>Current Uses</b>
Basement	vacant
G/F	Unit A (the Premises), food factory (bakery) (Unit B) ( <b>Plan A-3</b> )
1/F to 8/F	office, warehouse, workshop and vacant

7.3 The surrounding areas have the following characteristics:

- (a) the area to the immediate southeast is Kwun Tong Business Area;
- (b) the locality is mainly occupied by industrial, I-O buildings and godown, including Ying Lun Godown and Fortune Industrial Building to its north-west, Ocean Industrial Building and Prosperity Industrial Building to its south-east, and Gee Luen Factory Building to its east. To its north-east is CLP Ngau Tau Kok Substation while to its south across Wai Yip Street is two commercial developments namely The Quayside and One Bay East (**Plan A-2**);

- (c) to its further east is MTR Ngau Tau Kok Station at Kwun Tong Road; and
- (d) the units on the G/F of the neighbouring industrial buildings are mainly used for shop and services including eating place and metal/ hardware shops while vehicle repair workshops are also commonly found in G/F units of the industrial buildings.

## **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 East, Lands Department (LandsD):

- (a) The Premises falls within NKIL 5745 which is held under Conditions of Sale No. 11167 dated 17.1.1978 that restricts the Lot to be used for industrial or godown (excluding offensive trade).
- (b) The proposed Shop and Services (Medical Consulting Services) use is in breach of the lease conditions. Should the application be approved by the Committee, the applicant is required to apply to his office for a temporary waiver or a lease modification to give effect to the proposed use. However, there is no guarantee that the temporary waiver or 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, waiver fee or premium as appropriate, as imposed by LandsD.
- (c) The floor area of the premises and other details submitted by the applicant have not been verified and the applicant is required to demonstrate the dimensions and calculation of the floor area when the lease modification/waiver application is submitted.

### Fire Safety

#### 9.1.2 Comments of the Director of Fire Services (D of FS):

- (a) He has 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 application premises.
- (b) The building is provided with a sprinkler system so that the maximum permissible aggregated commercial floor area on the G/F is 460m<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 which is administered by the Buildings Department.
- (d) 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.

### Building Matters

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

- (a) He has no in-principle objection to the application.
- (b) All building works/alterations and additions 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/alterations and additions works/change of use are in compliance with the BO, including (but not limited to) the following:
  - (i) adequate means of escape should be provided to the Premises in accordance with the Building (Planning) Regulation (B(P)R) 41(1) and the Code of Practice for Fire Safety in Buildings 2011 (FS Code);
  - (ii) the Premises should be separated from the remaining portion of the building by fire barriers of adequate fire resistance rating pursuant to the Building (Construction) Regulation 90 and the FS Code;

- (iii) access and facilities for persons with a disability should be provided to the Premises in accordance with the B(P)R 72 and Design Manual: Barrier Free Access 2008; and
- (iv) adequate sanitary fitments should be provided to the premises in accordance with the Building (Standard of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations.
- (c) For unauthorized building works (UBW) erected on private land/buildings, enforcement action may be taken by the Building Authority (BA) to effect their removal in accordance with Buildings Department'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 Premises under the BO.
- (d) The applicant should draw attention to the Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers PNAP APP-47 that the BA has no powers to give retrospective approval or consent for any UBW.
- (e) Detailed comments under the BO can only be formulated at the building plan submission stage.

9.2 The following Government departments have no objection to/no comment on the application:

- (a) Chief Highway Engineer/Kowloon, Highways Department;
- (b) Chief Engineer/Mainland South, Drainage Services Department;
- (c) Chief Engineer/Development(2), Water Supplies Department;
- (d) Commissioner for Transport;
- (e) Director of Food and Environmental Hygiene; and
- (f) District Officer (Kwun Tong), Home Affairs Department.

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

On 24.9.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 15.10.2019, one public comment was received concerning that the surrounding environment would be affected by the proposed use (**Appendix II**).

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

11.1 The application is to seek planning permission for the use of the Premises for 'Shop and Services (Medical Consulting Services)' use. The Premises, currently vacant, is located on the G/F of an industrial building within the "OU(B)" zone.

- 11.2 The “OU(B)” zone is intended for general business uses. It allows greater flexibility in the use of the existing industrial or I-O buildings provided that the shop and services use would not induce adverse fire safety and environmental impacts. The proposed ‘Shop and Services (Medical Consulting Services)’ use at the Premises is considered generally in line with the planning intention.
- 11.3 Kowloon Bay Business Area and the adjoining Kwun Tong Business Area are being transformed into commercial use with many similar approved applications for ‘Shop and Services’ uses on the G/F of industrial or I-O buildings in the vicinity. The proposed ‘Shop and Services (Medical Consulting Services)’ use at the Premises is not incompatible with the surrounding areas.
- 11.4 The proposed use complies with the TPB Guidelines for Development within the “OU(B)” zone (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 including D of FS, CBS/K, BD and C for T have no objection to/no comment on the application.
- 11.5 As confirmed by D of FS, the subject building is protected by a sprinkler system and subject to a maximum permissible limit of 460m<sup>2</sup> for aggregated commercial floor area on the G/F in accordance with TPB PG-No. 22D. Should the Committee approve the planning application, the total aggregate commercial floor area on G/F of the subject building will be 450m<sup>2</sup>, which is within the maximum permissible limit of 460m<sup>2</sup> as stated above. 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.
- 11.6 Regarding the public comment expressing concern on affecting the surrounding environment, the planning considerations and 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 as 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 15.11.2021, 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 also suggested for Members’ reference:

### **Approval Conditions**

- (a) the submission and implementation of the fire safety measures, including the provision of fire service installations and equipment in the application premises and means of escape completely separated from the industrial portion in the subject building, 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 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.
- 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 16.9.2019
<b>Appendix Ia</b>	Replacement pages received on 19.9.2019
<b>Appendix II</b>	Public comment
<b>Appendix III</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Site Location Plan
<b>Drawing A-2</b>	Proposed Layout of the Application Premises
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Similar Application within the Subject Building
<b>Plans A-4 and A-5</b>	Site photographs