

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K14/753

<u>Applicant</u>	: Sun Fook Property Investments Limited
<u>Premises</u>	: Workshop, G/F, Fook Cheong Building, 63 Hoi Yuen Road, Kwun Tong, Kowloon
<u>Gross Floor Area</u>	: About 243m ²
<u>Lease</u>	: (a) Remaining Portion (RP) of Kun Tong Inland Lot (KTIL) No. 39 (b) Restricted to general industrial purposes
<u>Plan</u>	: Draft Kwun Tong (South) Outline Zoning Plan (OZP) No. S/K14S/21
<u>Zoning</u>	: “Other Specified Uses” annotated “Business” (“OU(B)”) [Maximum plot ratio (PR) of 12 and maximum building height of 160 meters above Principal Datum or the PR and the height of the existing building(s), whichever is the greater]
<u>Application</u>	: Shop and Services

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Shop and Services’ use. The Premises occupies the workshop on G/F of an industrial building, namely Fook Cheong Building, at 63 Hoi Yuen Road, Kwun Tong, and is currently partly used as shop and services and partly under renovation. It falls within an area zoned “OU(B)” on the draft Kwun Tong (South) OZP No. S/K14S/21 (**Plan A-1**). According to 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 and planning permission from the Town Planning Board (the Board) is required.
- 1.2 The Premises is the subject of two previous planning applications (**Plan A-3**). Application No. A/K14/98 for ‘Bank’ use was approved by the Metro Planning Committee (the Committee) of the Board on 4.12.1992. Application No. A/K14/504 submitted by the same applicant for the same use as the current application, which was approved by the Committee on 16.6.2006, was revoked due to non-compliance with the approval condition on the submission and implementation of fire services installations before operation of the use.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 17.11.2017 (Appendix I)
 - (b) Revised ground floor layout plan of the building received on 21.12.2017 (Appendix Ia)
- 1.4 Plans showing the ground floor layout of the building as submitted by the applicant are at **Drawings A-1** and **A-2**.

2. Justifications from the Applicant

The applicant claimed that the applied use is in support of the commercial development in the area as set out in **Appendix I**.

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 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 area on G/F of an existing industrial or I-O building with and without sprinkler systems should 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 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 Application

The Premises is the subject of two planning applications (Nos. A/K14/98 and 504) (**Plan A-3**) which were approved in 1992 and 2006 respectively. In line with the former planning permission, the Premises was once used as bank but had ceased operation. The permission had therefore lapsed. The latter application for 'Shop and Services' use submitted by the same applicant for the same use was approved by the Committee subject to an approval condition requiring the submission and implementation of fire services installations before the operation of the use. As the approval condition has not been satisfactorily complied with, the planning permission was revoked.

6. Similar Applications

- 6.1 The Committee has so far considered a total of three applications (including the two previous applications mentioned in para. 5 above) for 'Shop and Services' use on G/F of the building (**Plan A-3**). All of these applications were approved by the Committee and details of which are shown in the table below.

Application No.	Unit No.	Applied/ Proposed Use	Floor Area (m ² about)	Date of Decision	Decision
Uses not applicable for the maximum permissible limit of 460m²					
A/K14/98	Portion of G/F	Bank	256	4.12.1992 (Lapsed)	Approved
Uses applicable for the maximum permissible limit of 460m²					
A/K14/400	Car Park No. L1	Retail Shop	23	10.5.2002	Approved with Conditions
A/K14/504	Workshop	Shop and Services	347*	16.6.2006 (Revoked)	Approved with Conditions
Total Approved Floor Area[^]: 23m²					

* The application premises is identical to that of the current application, however the floor area of the Premises provided by the applicant was larger.

[^] Excluded floor area in cases of which planning permission have lapsed or been revoked.

- 6.2 Should the current application be approved, the resultant total aggregate commercial floor area would be 266m² (i.e. 23m² + 243m²) which is within the maximum permissible limit of 460m² on G/F of an industrial building with a sprinkler system.
- 6.3 There are a total of 201 similar applications for 'Shop and Services' use on G/F of industrial or I-O buildings under the "OU(B)" zone in the Kwun Tong Business

Area (KTBA). 168 of them were approved and the remaining 33 were rejected by the Committee, 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 (Drawings A-1 and A-2, Plans A-1 to A-3 and photos on Plans A-4 to A-6)

7.1 The Premises:

- (a) occupies the workshop on G/F of Fook Cheong Building (**Drawings A-1 and A-2**), and is currently partly used as shops and services (including money exchange, convenience store and fast food counters) and partly under renovation (**Plans A-4 to A-6**);
- (b) is partitioned into 10 individual units, common lavatories and an E&M room (**Drawing A-2**), all having their own entrances fronting Hoi Yuen Road and/or How Ming Street (**Plan A-4**); and
- (c) is separated from the entrance to other floors of the building (**Drawing A-1**).

7.2 The subject building:

- (a) is a 15-storey industrial building including a basement carpark built in 1980 and is sprinkler protected; and
- (b) has the following existing uses:

Floor	Main Uses
B/F	Carpark
G/F	Premises , shop and services (electrical shop) ^[a] , management office, lift lobby, carpark and internal driveway (Drawing A-1 and Plan A-4)
1/F-13/F	Offices/showrooms/studios (all floors except 3/F), locked/vacant units (1/F & 12/F), fitness centre (3/F) ^[b] , shop and services (12/F) ^[c]

^[a] Covered by planning approval No. A/K14/400.

^[b] No record of planning approval granted for this use.

^[c] Not allowed on upper floors of industrial building.

7.3 The surrounding areas have the following characteristics:

- (a) the neighbouring buildings along Hoi Yuen Road and How Ming Street are mainly industrial or I-O buildings;
- (b) to the southwest of the subject building is a commercial/office building, namely, Aitken Vanson Centre (**Plan A-2**);
- (c) the G/F units of the nearby buildings are mainly used as retail shops, banks, real estate agencies, money exchanges, fast food shops and eating places; and
- (d) MTR Kwun Tong Station is approximately 200m to the northeast (**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 summarized as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Kowloon East, Lands Department (DLO/KE, LandsD):

- (a) No objection to the application.
- (b) The Premises falls within RP of KTIL No. 39 (“the Lot”) which is held under Conditions of Sale No. 5576 dated 21.1.1957 as varied or modified by a Modification Letter dated 2.8.1960 and a Deed of Variation dated 23.7.1982 (“the Conditions”) for a term of 21 years commencing from 1.7.1955 and renewable for 21 years less 3 days and was further extended to 30.6.2047. The lease conditions of the Lot contain, inter alia, the following restrictions:
 - (i) the lot is restricted to general industrial purposes; and
 - (ii) no building shall be erected except a factory, ancillary offices and quarters for persons essential to the safety and security of the building.
- (c) Notwithstanding the restrictions on user and type of building contained in the Conditions of the Lot, the Premises were subject to a No-Objection Letter dated 14.8.2008 registered in the Land Registry by Memorial No. 08081902130019 permitting non-residential purposes but excluding (i) hotel, petro filling station and residential care home; (ii) offensive trades under the Public Health and Municipal Services Ordinance; and (iii) the use or storage of any dangerous goods.
- (d) The proposed use of the Premises for shop and services purposes is not in breach of the lease conditions.

Building Matters

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

- (a) No objection to the application.

- (b) All building works/change in use are subject to compliance with the Buildings Ordinance (BO).
- (c) The proposal is acceptable in principle under the Building (Construction) Regulations from the building structure point of view.
- (d) The applicant is advised to appoint an Authorised Person to submit building plans for the proposed change in use and/or alterations and additions works to demonstrate compliance with the BO, in particular:
 - (i) adequate means of escape should be provided to the Premises in accordance with 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 Building (Construction) Regulation 90 and FS Code;
 - (iii) access and facilities for persons with a disability including accessible toilet should be provided to the Premises in accordance with B(P)R 72 and “Design Manual: Barrier Free Access 2008”;
 - (iv) adequate sanitary fitments should be provided to the Premises in accordance with the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations; and
 - (v) structural justification should be provided if solid partition walls are to be erected within the Premises.
- (e) Detailed comments under the BO can only be provided at the building plan submission stage.
- (f) For unauthorised building works (UBW) erected on leased land/private buildings (if any), enforcement action may be taken by the Building Authority (BA) 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 Premises under the BO.
- (g) Please also draw the applicant’s attention to “Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers APP-47” that the BA has no powers to give retrospective approval or consent for any UBW.

Fire Safety

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

- (a) No objection in principle to the application subject to:

- (i) fire services 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 protected with a sprinkler system so that the maximum permissible aggregated commercial floor area on G/F is 460m² 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 FS Code which is administered by the BA.
 - (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.

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

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

10. Public Comments Received During Statutory Publication Period

On 24.11.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 15.12.2017, no public comment was received.

11. Planning Considerations and Assessments

11.1 The Premises is currently partly used as shops and services without a valid planning permission and partly under renovation. The application is to regularize the use of the Premises, which falls within "OU(B)" zone, for 'Shop and Services' use. 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 uses would not induce adverse fire safety and environmental impacts. The applied use at the Premises is considered generally in line with the planning intention.

11.2 KTBA is being transformed into commercial use 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 applied use is compatible with the changing land use character of the area. A total of three applications for 'Shop and Services' use on G/F of the subject building were approved by the Committee (**Plan A-3**). Among them, a previous application (No. A/K14/504) for the same use at the Premises was approved by the Committee on 16.6.2006, but was revoked due to non-compliance with the approval condition before operation of the use.

- 11.3 The applied use at the Premises complies with 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 consulted including D of FS, C for T and CBS/K, BD have no objection to/no adverse comment on the application.
- 11.4 According to D of FS, the subject building is protected with a sprinkler system and the maximum permissible aggregate commercial floor area on G/F is 460m². Should the Committee approve the application, the total approved commercial floor area on G/F of the industrial building will be 266m², which is within the maximum permissible limit as set out in TPB PG-No. 22D.
- 11.5 As the shop and services has been in operation on portion of the Premises and that the previous permission for the same use was revoked due to non-compliance with the approval condition on the submission and implementation of the proposal for fire safety measures before operation of the use, a shorter compliance period of three months and six months for the submission and implementation of proposal for fire safety measures respectively for the approval condition in paragraph 12.2(a) below is recommended to monitor the progress of compliance should the Committee decide to approve the application. Moreover, the applicant would be advised that should he fail to comply with the approval condition again resulting in the revocation of the planning permission, sympathetic consideration might not be given to any further application.
- 11.6 No public comment was received on the application.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, no time clause on commencement is proposed as the 'Shop and Services' use under application is already in existence. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval conditions

- (a) the submission of the proposal for fire safety measures, including the provision of fire services installations and equipment at the application premises and means of escape separated from the industrial portion of the subject industrial building, within three months from the date of the approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 12.4.2018;

- (b) the implementation of the proposal for fire safety measures, including the provision of fire services installations and equipment at the application premises and means of escape separated from the industrial portion of the subject industrial building, within six months from the date of the approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 12.7.2018; and
- (c) if any of the above planning conditions (a) or (b) is not complied with by the specified dates, 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 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.
- 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 17.11.2017
Appendix Ia	Revised ground floor layout plan of the building received on 21.12.2017
Appendix II	Recommended advisory clauses
Drawing A-1	Ground Floor Layout Plan of the Subject Building as submitted by the applicant
Drawing A-2	Layout Plan of the Premises as submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Ground Floor Plan of the Subject Building
Plans A-4 to A-6	Site Photos