

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K14/755

- Applicant** : Hay Nien Company Limited and Jireh International Limited,
represented by Erik Cheung Architect
- Premises** : G/F, Hay Nien Building, 1 Tai Yip Street, Kwun Tong, Kowloon
- Gross Floor Area** : About 292.9m²
- Lease** : (a) Kwun Tong Inland Lot (KTIL) No. 567 and KTIL No. 568
(b) Restricted to industrial or godown purposes or both excluding
offensive trade
- Plan** : Draft Kwun Tong (South) Outline Zoning Plan (OZP) No. S/K14S/21
- Zoning** : “Other Specified Uses” annotated “Business” (“OU(B)”) [Maximum plot ratio (PR) of 12 and maximum building height of 100 meters above Principal Datum or the PR and the height of the existing building(s), 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 ‘Shop and Services’ use. The Premises is located on G/F of an industrial building, namely Hay Nien Building, at 1 Tai Yip Street, Kwun Tong. 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 According to the applicant and our recent site inspection, the Premises is currently used as a godown.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 9.1.2018 **(Appendix I)**
 - (b) Revised pages of application form, location plan and ground floor layout plan of the building received on 13.1.2018, clarifying the area of the Premises **(Appendix Ia)**
- 1.4 Plan showing the ground floor layout of the building as submitted by the applicant is at **Drawing A-1**.

2. Justifications from the Applicant

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

- (a) the proposed use is in line with the planning intention of the “OU(B)” zone as it is non-polluting and compatible with the nature of the transformation taken place at adjacent lots/buildings, including a newly built office building at 2 Tai Yip Street and the wholesale conversions of two existing industrial buildings into a hotel and an office building nearby respectively;
- (b) no adverse traffic and environmental impact is anticipated; and
- (c) the Premises has been provided with a sprinkler system which is in good working conditions and under proper routine maintenance.

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 (HKPSG), and all other statutory or non-statutory requirements of relevant Government departments must also be met.

5. Previous Application

There is no previous application in respect of the Premises.

6. Similar Applications

- 6.1 There is no similar application in respect of G/F of the subject building.
- 6.2 There are a total of 202 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). 169 of them were approved with conditions 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 (Drawing A-1, Plans A-1 to A-2 and photos on Plans A-3 to A-5)

7.1 The Premises:

- (a) is located on G/F of Hay Nien Building (**Drawing A-1**), and is currently used as a godown (**Plans A-3 to A-5**);
- (b) has own entrances fronting Wai Yip Street and Tai Yip Street (**Plan A-3**); and
- (c) is separated from the entrance to other floors of the building (**Drawing A-1**).

7.2 The subject building:

- (a) is a 14-storey industrial building built in 1980 and equipped with sprinkler system; and
- (b) has the following existing uses:

Floor	Main Uses
G/F	Premises , lift lobby, loading/unloading area (Drawing A-1 and Plan A-3)
1/F-13/F	Offices (1/F, 3/F, 6/F to 8/F, 10/F to 13/F), warehouse (2/F), religious institution (4/F) ^[a] , under renovation (5/F & 9/F)

^[a] Not allowed unless in the purpose-designed non-industrial portion on the lower floors of an existing industrial or I-O building, which are separated from the industrial uses located above by a buffer floor or floors and no industrial uses are located within that non-industrial portion.

7.3 The surrounding areas have the following characteristics:

- (a) the neighbouring buildings along Tai Yip Street and Wai Yip Street are mainly industrial or I-O buildings;
- (b) two commercial/office buildings under construction are located to the east of the subject building across Tai Yip Street and Yan Yip Street and to the south across Wai Yip Street respectively (**Plan A-2**);
- (c) the G/F units of the nearby buildings are mainly used as factories/godowns and motor services; and
- (d) MTR Ngau Tau Kok Station is approximately 250m to the east (**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 KTIL 567 and KTIL 568 (“the Lots”) which are held under a Government Lease dated 26.10.1967 and Conditions of Sale No. 8621 dated 13.7.1964 (hereinafter “the Condition”) respectively that restrict the Lots to be used for industrial or godown purposes or both excluding any offensive trade.
- (c) The proposed use of the Premises for the purpose of ‘Shop and Services’ is in breach of the lease conditions. Should the planning application be approved by the Board, the applicant is advised to apply to his office for a temporary waiver or a lease modification to give effect to the proposal. However, there is no guarantee that the temporary waiver or lease modification would be approved and if the application is eventually approved by LandsD in the capacity as the landlord at its discretion, it will be subject to those terms, including payment of any administration fee, waiver fee or premium as appropriate, as imposed by LandsD.

- (d) His office has no record of the size and floor plan of the Premises and is therefore unable to verify the details of the same as stated by the applicant.

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 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.
- (d) Detailed comments under the BO can only be provided at the building plan submission stage.
- (e) 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.
- (f) 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 19.1.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 9.2.2018, no public comment was received.

11. Planning Considerations and Assessments

11.1 The application is to convert the Premises, which is currently used as a godown and falls within "OU(B)" zone, for the proposed '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 proposed 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 proposed use under the application is compatible with the changing land use character of the area.
- 11.3 The proposed 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 292.9m², which is within the maximum permissible limit as set out in TPB PG-No. 22D.
- 11.5 To address D of FS’s concern on fire safety aspect, an approval condition in paragraph 12.2(a) below to require the submission and implementation of a proposal for fire safety measures to the satisfaction of D of FS is recommended.
- 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, it is suggested that the permission shall be valid until 2.3.2020, 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 submission and implementation of a 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, 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 (a) 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 II**.

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 9.1.2018
Appendix Ia	Revised pages of the application form, location plan and ground floor layout plan of the building received on 13.1.2018, clarifying the area of the Premises
Appendix II	Recommended advisory clauses
Drawing A-1	Ground Floor Layout Plan of the Subject Building as submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3 to A-5	Site Photos

**PLANNING DEPARTMENT
MARCH 2018**