

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K14/770

- Applicant** : CHAN Kam-tong
- Premises** : Workshop No. 1, G/F, Crown Industrial Building, 106 How Ming Street, Kwun Tong, Kowloon
- Floor Areas** : 15.62m²
- Lease** : (a) Kun Tong Inland Lot (KTIL) No. 26
(b) Restricted to industrial purposes (excluding offensive trades)
- Plan** : Approved Kwun Tong (South) Outline Zoning Plan (OZP) No. S/K14S/22
- Zoning** : “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 height of the existing building(s), whichever is the greater]
- Application** : Shop and Services (Money Exchange)

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Shop and Services (Money Exchange)’ use. The Premises occupies a workshop unit on G/F of an industrial building, namely Crown Industrial Building, at 106 How Ming Street, Kwun Tong. It falls within an area zoned “OU(B)” on the approved Kwun Tong (South) OZP No. S/K14S/22 (**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 for which planning permission from the Town Planning Board (the Board) is required.
- 1.2 According to the applicant and recent site inspection, the Premises is currently used as a currency exchange shop without planning permission.
- 1.3 In support of the application, the applicant has submitted the application form (**Appendix I**) which was received on 25.3.2019.
- 1.4 Plan showing the internal layout of the Premises submitted by the applicant is at **Drawing A-1**.

2. Justifications from the Applicant

No justification has been put forth by the applicant in support of the application.

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

The applicant is not a “current land 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 Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by obtaining consent of the current land owner. 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 (L/UL) 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 planning application (No. A/K14/695) (submitted by a different applicant) with the same floor area as the current application for ‘Shop and Services (Bakery and Cake Shop)’ use approved with conditions by the Committee on 4.4.2014 (**Plan A-3**), which lapsed as the applied use ceased operation.

6. Similar Applications

6.1 The Committee has so far considered a total of three applications (including the previous application mentioned in paragraph 5 above) for ‘Shop and Services’ use on G/F of the subject building (**Plan A-3**). These three applications were approved by the Committee but had all lapsed or were revoked due to non-compliance of the approval condition on fire safety measures. Details are shown in the table below.

Application No.	Unit No.	Applied/Proposed Use	Floor Area (m ² about)	Date of Decision	Decision
A/K14/685	2	Shop and Services (Real Estate Agency)	20.9	19.7.2013 (Revoked)	Approved with conditions
A/K14/695	1	Shop and Services (Bakery and Cake Shop)	15.62	4.4.2014 (Lapsed)	Approved with conditions
A/K14/701	2	Shop and Services (Real Estate Agency)	23.1	11.7.2014 (Revoked)	Approved with conditions

6.2 Should the current application be approved, the resultant aggregated commercial floor area on G/F of the building would be about 15.62m²^[1], which is within the maximum permissible limit of 460m² in a building with a sprinkler system in accordance with TPB PG-No. 22D.

6.3 There are a total of 208 similar applications for ‘Shop and Services’ use on G/F of industrial or I-O buildings under the “OU(B)” zone in KTBA. 174 of them were approved with conditions and the remaining 34 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 and A-2 and photos on **Plan A-3**)

7.1 The Premises:

- (a) occupies a workshop unit on G/F of Crown Industrial Building (**Drawing A-1**), and is currently used as a currency exchange shop (**Plan A-3**); and
- (b) has a direct entrance fronting How Ming Street that is separated from the

^[1] Floor areas of planning permissions on G/F of the building which had lapsed or were revoked are excluded.

entrance to other floors of the building (**Plan A-4**).

7.2 The building:

- (a) is a 16-storey industrial building built in 1989 (**Plan A-3**) and is equipped with sprinkler system; and
- (b) has the following existing uses:

Floor	Main Uses
G/F	The Premises ^[@] , shop and services (another currency exchange shop ^[@]), locked, lift lobby, carpark and L/UL area (Plan A-3)
1-15/F	Office (2-14/F), shop and services (showroom ^[@] , retail shop ^{#[]} and private medical consulting room ^{#[]}) (5/F, 8-10/F, 12/F & 13/F), place of recreation, sports or culture (fitness centre ^[@]) (6/F), eating place ^{#[]} (13/F & 15/F), godown (14/F), locked/works in progress (1-14/F)

^[@] No record of planning approval granted for these uses.

^{#[]} Uses not allowed unless in the purpose-designed non-industrial portion on the lower floors of the building and such uses are separated from the industrial uses located above by buffer floor(s) of non-hazardous occupancy, and no industrial uses are located within that non-industrial portion. In view of the above, this use is not allowed in the subject building.

7.3 The surrounding areas have the following characteristics:

- (a) the neighbouring buildings along How Ming Street are mainly industrial or I-O buildings with a few commercial/office buildings (**Plan A-2**);
- (b) the G/F units of the nearby buildings are mainly used as retail shops, eating places, fast food counters, bank and currency exchange shop; and
- (c) the MTR Kwun Tong Station is approximately 200m to the east (**Plan A-1**).

8. Planning Intention

The planning intention of the “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 No. 26 (“the Lot”) which is held under a Government Lease dated 22.11.1967 for a term of 21 years commencing from 1.7.1955 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 user is restricted to industrial purposes (excluding offensive trades); and
 - (ii) no building shall be erected other than 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 Lease of the Lot, the Premises is subject to a temporary waiver dated 4.5.2015 registered in the Land Registry by Memorial No. 15050801600010 for the purpose of shop and services (bakery and cake shop) with a term of three years from 1.2.2012 and thereafter quarterly.
- (d) The Premises has already been used as a ‘money exchange’ shop, which is in breach of the lease conditions as well as the said temporary waiver. Action has been taken by his office and two warning letters dated 28.10.2018 and 4.2.2019 against the Premises were issued. Without prejudice to Government’s right to take appropriate lease enforcement action against the breach, should the Board approve the planning application, the applicant is required to apply to his office for a temporary waiver/lease modification to give effect to the proposal. However, there is no guarantee at this stage that the temporary waiver/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 waiver fee/premium as appropriate as imposed by LandsD.
- (e) His office does not have any record on the size or floor plan of the Premises. The applicant is required to demonstrate the dimensions and calculation of the floor area when a temporary waiver/lease modification application is submitted.

Building Matters

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

- (a) No objection in principle to the application.
- (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 Building Authority (BA) 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 to submit building plans (BPs) for the proposed change in use and/or alterations and additions works to demonstrate compliance with BO.
- (d) For unauthorized building works (UBW) erected on the Premises (if any), enforcement action may be taken by BA to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. Granting of any planning approval should not be construed as an acceptance of any UBW on the Premises under BO.
- (e) The applicant's attention should be drawn to Practice Note for Authorized Person, Registered Structural Engineers and Registered Geotechnical Engineers APP-47 that BA has no powers to give retrospective approval or consent for any UBW and/or building works which had already been completed at the Premises.
- (f) Detailed comments under BO can only be provided at the BP submission stage.

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 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 BPs; and
 - (ii) Means of escape separated from the industrial portion is available for the Premises.
- (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 Code of Practice for Fire Safety in Buildings 2011 which is administered by BD.

9.2 The following Government departments have no objection to or 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 2.4.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 23.4.2019, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The application is to seek planning permission for ‘Shop and Services (Money Exchange)’ use at the Premises. 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 on 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.
- 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 of BD have no objection to or no adverse comment on the application.
- 11.4 As advised by D of FS, the building, which is protected with a sprinkler system, is subject to a maximum permissible limit of 460m² for aggregated commercial floor area on G/F. As mentioned in paragraph 6.1 above, there is no valid similar application in respect of G/F of the subject building. Should the Committee approve the application, the aggregated commercial floor area will be about 15.62m², which is within the maximum permissible limit of 460m². Direct access is provided for the Premises with street frontage at How Ming Street. In this regard, D of FS has no objection to the application subject to an approval condition on the submission and implementation of the proposal for fire safety measures.
- 11.5 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 (Money Exchange)’ use under application is already in operation. 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 within six months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 17.11.2019; and

- (b) if the above planning condition (a) 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**.

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, 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 25.3.2019
Appendix II	Recommended advisory clauses
Drawing A-1	Internal layout plan of the application premises as submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Floor Plan
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2019**