

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

**APPLICATION NO. A/K14/799**

- Applicant** : The Media Evangelism Limited represented by Mei Shing Decorate Design Limited
- Premises** : Unit 2, G/F (Part), 1 Hung To Road, Kwun Tong, Kowloon
- Floor Area** : about 143m<sup>2</sup>
- Lease** : (a) Kwun Tong Inland Lot (KTIL) No. 415  
(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)”) (about 83%); and  
- Maximum plot ratio (PR) of 12 and the maximum building height of 160 metres above Principal Datum or the PR and the height of the existing building(s), whichever is the greater  
Area Shown as ‘Road’ (about 17%)
- 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 (**Drawing A-1**). The Premises occupies a portion of factory unit 2 of G/F of an existing industrial building (IB) at 1 Hung To Road, Kwun Tong, which falls mainly within an area zoned “OU(B)” and partly on area shown as ‘Road’ on the approved Kwun Tong (South) OZP No. S/K14S/22 (**Plans A-1 and 2**). 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, which requires planning permission from the Town Planning Board (the Board). According to the covering Notes of the OZP, in any area shown as ‘Road’, all uses or development except those specified otherwise require permission from the Board.
- 1.2 The applicant indicates that the Premises is vacant. According to recent site inspection, the Premises is currently used for the retail use without any planning permission.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 7.1.2021 **(Appendix I)**

- (b) 1<sup>st</sup> Further Information (FI) received on 4.2.2021 and 9.2.2021 with revised layout plan and clarification on proposed loading/unloading (L/UL) arrangement. **(Appendix Ia)**
- (c) 2<sup>nd</sup> FI received on 11.2.2021 with clarification on premises area. **(Appendix Ib)**
- (d) 3<sup>rd</sup> FI received on 16.2.2021 with revised layout plan. **(Appendix Ic)**

*(All FIs are accepted and exempted from publication requirement)*

1.4 Plan showing the internal layout of the Premises submitted by the applicant is at **Drawing A-1.**

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

The applicant is a charitable organisation<sup>[1]</sup> and the proposed retail shop and fast food counter (without seating accommodation) would serve the local area with affordable goods and food. ‘Shop and Services’ use under application covers the entire Premises which would be separated from the remaining portion of the workshop by fire resistance board.

## **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 sending notification to 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 Industrial-Office (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;

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<sup>[1]</sup> Registered under Section 88 of the Inland Revenue Ordinance

- (c) 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 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 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 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 Applications

The Premises is part of a previous planning application (No. A/K14/424) for Proposed Training Centre of Occupational Safety & Health Council with a floor area of about 2,214m<sup>2</sup> which was approved by the Metro Planning Committee (the Committee) on 10.10.2003 (**Plan A-3**). The approved use had ceased operation and planning permission was lapsed.

## 6. Similar Applications

6.1 The Committee has so far considered two applications on G/F of the subject IB for ‘Retail Shop’ and ‘Shop and Services (Fast Food Shop)’ uses. All of them were approved by the Committee with conditions and are still valid (**Plan A-3**). Details of which are shown in the table below.

Application No.	Unit No.	Applied Uses	Floor Area (m <sup>2</sup> )	Date of Decision	Decision
<b>Uses applicable for the maximum permissible limit of 460m<sup>2</sup></b>					
A/K14/331 <sup>[1]</sup>	8	Retail Shop	106	14.5.1999	Approved/ Agreed
<b>Total Approved Commercial Floor Area: 106m<sup>2</sup></b>					
<b>Uses <u>not</u> applicable for the maximum permissible limit of 460m<sup>2</sup> <sup>[2]</sup></b>					
A/K14/760	7 (Portion)	Shop and Services (Fast Food Shop)	23.5	17.8.2018	Approved with Conditions

<sup>[1]</sup> The planning application was approved when the subject IB was zoned “Industrial”.

<sup>[2]</sup> As set out in TPB PG-No. 22D (see paragraph 4(c)), the limits on commercial floor area do not apply to bank, fast food counter, electrical shop, local provisions store and showroom in connection with the main industrial use.

- 6.2 According to TPB PG-No. 22D, the proposed ‘Shop and Services’ use under the application is subject to a maximum permissible limit of 460m<sup>2</sup> for aggregate commercial floor area on G/F of the subject IB with a sprinkler system. Should the current application be approved, the resultant total aggregate commercial floor area would be 249m<sup>2</sup> (i.e. 106m<sup>2</sup> + 143m<sup>2</sup>) which is within the maximum permissible limit.
- 6.3 There are a total of 216 similar applications for ‘Shop and Services’ use on G/F of industrial or I-O buildings under the “OU(B)” zone in Kwun Tong Business Area (KTBA). 182 of them were approved with conditions and the remaining 34 were rejected by the Committee of the Board, 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 (Plans A-1 to A-3 and photos on Plans A-4 and A-5)**

7.1 The Premises:

- (a) occupies a portion of G/F of 1 Hung To Road (**Plan A-2**), and is currently used for the applied use without planning permission (**Plans A-4 and A-5**); and
- (b) has its own entrance fronting Kwun Tong Road and is separated from the entrance to other floors of the IB.

7.2 The subject building:

- (a) is a 33-storey IB including a 2-storey carpark (on 1/F and 3/F) built in 1994 and is equipped with sprinkler system; and
- (b) has the following existing uses:

Floor	Main Uses
G/F	<b>The Premises</b> (Shop and Services), shop and services (retail shop and fast food shop) <sup>[1]</sup> , vacant units, canteen, lift lobby, L/UL area and internal driveway
1/F and 3/F	Carpark
2/F, 5/F – 37/F <sup>[2]</sup>	Office, godown, vacant units

<sup>[1]</sup> Covered by planning permissions No. A/K14/331 and 760.

<sup>[2]</sup> There is no 4/F, 13/F, 14/F, 24/F and 34/F at the subject IB.

7.3 The surrounding areas have the following characteristics (**Plans A-1 and A-2**):

- (a) the neighbouring buildings at Lai Yip Street and Hung To Road are mainly industrial or I-O buildings;
- (b) the G/F units of the nearby buildings are mainly used as motor services and godown;
- (c) commercial/office (c/o) buildings and a hotel are found in the vicinity, namely, Millennium City 3 to the east along Kwun Tong Road, Tsui Wah Group Centre

to the south across Hung To Road, and L’hotel Elan to the further southeast at Chong Yip Street;

- (d) two c/o buildings, with one to its immediate east and one to its further west across Lai Yip Street, are under construction; and
- (e) the MTR Ngau Tau Kok Station is about 50m to the north across Kwun Tong Road.

## **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) The Premises falls within KTIL No. 415, which is restricted for industrial purposes excluding offensive trade.
- (b) The proposed ‘Shop and Services’ use would be in conflict with the lease conditions. If the planning application is approved by the Board, the applicant shall apply to LandsD for waiver/lease modification to implement the proposal. However, there is no guarantee that the waiver/lease modification will be approved. Such application, if received by LandsD, will be considered by LandsD acting in the capacity as the 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. Approval by the Board shall not prejudice the government’s right to take enforcement action against any breach identified at the Premises.
- (c) Upon receipt of the application of waiver/lease modification, if applied by the owner of the Premises, he is required to prove his ownership and demonstrate the dimensions and calculation of the floor area in all respect to the satisfaction of LandsD.

## **Fire Safety**

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 building plans; 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 the maximum permissible aggregated commercial floor area on 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” (FS Code) which is administered by the Building Authority (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.

## **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) 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 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; and

- (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.
- (d) Detailed comments under the BO can only be provided at the building plan submission stage.
- (e) For unauthorized building works (UBW) erected on leased land/private buildings (if any), enforcement action may be taken by the 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 application site under the BO.
- (f) The applicant's attention should be drawn 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.

### **Traffic Aspect**

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

- (a) He has no in-principle objection to the application from traffic engineering perspective as the Premises is small in size and conveniently located close to mass transport/ public transport services, applied use is small in scale, and that L/UL facilities are available on G/F of the Building.
- (b) He advises the applicant to note that C for T has the right to impose, alter or cancel any car parking, L/UL 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 Premises.

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

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

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

On 15.1.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 5.2.2021, a total of two public comments from members of Kwun Tong Central Area Committee were received including one supporting comment without giving any reason (**Appendix II(a)**), and one indicating no comment on the application (**Appendix II(b)**).

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

- 11.1 The application is to seek planning permission for proposed 'Shop and Services' use for the entire Premises, which is currently used as retail shop without planning permission. 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 use would not induce adverse fire safety and environmental impacts. The proposed uses, including retail shop and fast food counter, at the Premises are considered generally in line with the planning intention.
- 11.2 The KTBA is being transformed into commercial uses 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 is compatible with the changing land use character of the area.
- 11.3 The proposed use at the Premises comply with TPB PG-No. 22D in that it would not induce adverse fire safety and environmental impacts on the developments within the subject IB and the adjacent areas. Relevant Government departments consulted including C for T, CBS/K, BD and D of FS have no objection to/no adverse comment on the application
- 11.4 As advised by D of FS, the subject building is protected with a sprinkler system, which is subject to a maximum permissible limit of 460m<sup>2</sup> for aggregated commercial floor area on G/F and the proposed use should count towards the aggregate commercial floor area. Should the Committee approve the application, the aggregated commercial floor area will be about 249m<sup>2</sup>, which is within the maximum permissible limit of 460m<sup>2</sup>. Direct access is provided for the Premises onto Kwun Tong Road. 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 as detailed in paragraph 12(a) below.
- 11.5 Two applications for 'Shop and Services' use on the G/F of the subject IB were approved with conditions by the Committee (**Plan A-3**). There is no change in planning circumstances and the approval of the application is consistent with the previous decisions of the Committee on similar applications.
- 11.6 The two public comments as stated in paragraph 10 above are noted.

## **12. Planning Department's Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account of the public comments mentioned in paragraph 10, 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 operation. The following conditions of approval and advisory clauses are suggested for Members' reference:

### *Approval conditions*

- (a) the submission and implementation of a proposal on the fire safety measures 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 26.8.2021; 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 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, and the date when 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**

<b>Appendix I</b>	Application form received on 7.1.2021
<b>Appendix Ia</b>	1 <sup>st</sup> FI received on 4.2.2021 and 9.2.2021
<b>Appendix Ib</b>	2 <sup>nd</sup> FI received on 11.2.2021
<b>Appendix Ic</b>	3 <sup>rd</sup> FI received on 16.2.2021
<b>Appendices II(a) to II(b)</b>	Public Comments received during the statutory publication periods
<b>Appendix III</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Location of the Premises on the building plan as submitted by the Applicant
<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Previous/similar applications in respect of G/F of the Building
<b>Plans A-4 and A-5</b>	Site photos