

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/KC/455

- Applicant** : Ms. CHU Siu Ping
- Premises** : Portion of Workshop B (B3), G/F, Effort Industrial Building, 2-8 Kung Yip Street, Kwai Chung, New Territories
- Floor Area** : About 18.184m²
- Lease** : (a) Kwai Chung Town Lot No. 281 held under New Grant No. TW5398 restricted to industrial and/or godown purposes excluding offensive trades
(b) Permitted for the purpose of a real estate agency under temporary waiver dated 20.8.2012
- Plan** : Draft Kwai Chung Outline Zoning Plan (OZP) No. S/KC/29
- Zoning** : “Industrial” (“T”)

[Restricted to a maximum plot ratio (PR) of 9.5 and a maximum building height (BH) of 120 metres above Principal Datum, or the PR/BH of the existing building, 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) at Portion of Workshop B (B3) on the ground floor (G/F) of an existing industrial building (Effort Industrial Building) for the proposed ‘shop and services’ use. The subject building falls within an area zoned “T” on the draft Kwai Chung OZP No. S/KC/29 (**Plan A-1**). According to the Notes of the OZP for “T” zone, ‘Shop and Services (not elsewhere specified) (ground floor only, except in wholesale conversion of an existing building and Ancillary Showroom which may be permitted on any floor)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises is the subject of two applications (No. A/KC/88 and 379). It is part of the former application for ‘shop and services (bank)’ use approved with

conditions by the Metro Planning Committee (the Committee) of the Board on 12.1.1990 and it is the subject of the latter application for ‘shop and services (real estate agency)’ use submitted by the same applicant, which was approved with conditions by the Committee on 6.12.2011 for a period of three years. The condition in relation to submission and implementation of fire service installations under Application No. A/KC/379 was complied with and the planning permission lapsed on 6.12.2014. The Premises is currently vacant.

- 1.3 In support of the application, the applicant submitted an application form on 22.11.2018 (**Appendix I**). The G/F floor plan and layout plan showing the location of the Premises on G/F and the dimension of the Premises respectively are at **Drawings A-1 and A-2**.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are set out at **Appendix I**. They can be summarised as follows:

- (a) the proposed shop and services use is not incompatible with the surrounding developments and environment; and
- (b) the Premise is the subject of a previously approved planning application for shop and services (real estate agency). A fresh application is submitted due to the change of tenant.

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 Use/Development within “Industrial” Zone (TPB PG-No. 25D) promulgated in September 2007 are relevant in the following aspects:

- (a) it should be demonstrated that there is a genuine need for the proposed use under application and no suitable alternative accommodation can be found in the vicinity. The location and scale of the proposed use should be justified on operational grounds;
- (b) there should be an adequate provision of parking and loading/unloading facilities within the site in accordance with the Hong Kong Planning Standards and Guidelines and to the satisfaction of the Transport Department. The inclusion and operation of the proposed commercial use should not adversely affect the traffic conditions in the local road network; and

- (c) the Fire Services Department (FSD) 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 ground floor of an existing industrial/I-O building with and without sprinkler systems should as a general principle 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 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 (sited at street level without seating accommodation and licensed as food factory), electrical shop (selling electrical accessories usually with repairing services and small in scale), local provisions store (selling cigarettes, drinks, canned food and other local convenience goods, and small in scale) and showroom in connection with the main industrial use.

5. Previous Applications

- 5.1 The Premises is the subject of two previous applications (No. A/KC/88 and 379) for the 'shop and services (bank)' and 'shop and services (real estate agency)' uses which were approved by the Committee on 12.1.1990 and 6.12.2011 respectively (**Plans A-1 and A-3**).
- 5.2 Application No. A/KC/88 for 'shop and services (bank)' use was approved with conditions by the Committee on 12.1.1990 on the grounds that the applied use generally complied with the requirements of the then Town Planning Board Guidelines No. 25A for Use/Development within "Industrial" Zone in that the fire safety, traffic and environmental aspects were considered acceptable as there were no adverse comments from the Government departments.
- 5.3 Application No. A/KC/379 for 'shop and services (real estate agency)' use submitted by the same applicant was approved with conditions for a period of three years by the Committee on 6.12.2011 on the grounds that the applied use was not incompatible with the other uses at the subject industrial building; and the applied use generally complied with the requirements of the TPB PG-No. 25D in that the relevant Government departments had no adverse comments on traffic, infrastructural and building aspects and the change of industrial floor space into commercial use. The condition in relation to submission and implementation of fire service installations under Application No. A/KC/379 was complied with and the planning permission lapsed on 6.12.2014. The Premises is currently vacant.

6. Similar Applications

- 6.1 There are ten similar applications for 'shop and services' use on G/F of the subject building (**Plans A-1 and A-3**). Apart from the two previous applications as mentioned in paragraph 5 above, four applications (No. A/KC/29, 276, 319 and 324) were approved with conditions between 1981 and 2006 and four applications

(No. 368, 378, 380 and 450) were approved with conditions on a temporary basis of three years between 2011 and 2017 since the promulgation of the TPB PG-No. 25D in September 2007. Details of the approved applications are shown in the table below.

<u>Application No.</u>	<u>Unit No.</u>	<u>Applied/Current Use</u>	<u>Floor Area (m²)</u>	<u>Date of Consideration (MPC/TPB)</u>	<u>Decision (Permission Expiry date)</u>
Uses applicable for the maximum permissible limit of 460m ² for aggregate commercial floor area on G/F of an industrial building (with sprinkler systems)					
A/KC/319	Workshop D (Portion)	Shop and Services (Convenience Store)	121.14	17.3.2006	Approved with conditions (Revoked on 17.9.2006)
A/KC/324	Workshop D (Portion)	Shop and Services (Convenience Store)	121.14	17.11.2006	Approved with conditions
A/KC/368	Workshop B (Portion)	Shop and Services (Real Estate Agency)	14.76	17.6.2011	Approved with conditions (Revoked on 17.12.2011)
A/KC/378	Workshop B (Portion)	Shop and Services (Real Estate Agency)	18.471	18.11.2011	Approved with conditions (Lapsed on 18.11.2014)
A/KC/379	Workshop B (Portion)	Shop and Services (Real Estate Agency)	18.184	6.12.2011	Approved with conditions (Lapsed on 6.12.2014)
A/KC/380	Workshop B (Portion)	Shop and Services (Real Estate Agency)	41.67	6.12.2011	Approved with conditions (Lapsed on 6.12.2014)
A/KC/450	Workshop B (Portion)	Shop and Services	41.667	27.10.2017	Approved with conditions
Total approved commercial floor area*: 162.807 m²					
Uses not applicable for the maximum permissible limit of 460m ² for aggregate commercial floor area on G/F of an industrial building (with sprinkler systems)					
A/KC/29	Workshop A	Bank	220	15.5.1981	Approved with conditions
A/KC/88	Workshop B (Portion)	Bank	180	12.1.1990	Approved with conditions
A/KC/276	Workshop B (Portion)	Retail Shop (Local Provisions Store)	12.8	8.11.2002	Approved with Conditions

*Excluding floor area in cases of which planning permissions have lapsed and revoked

- 6.2 According to TPB PG-No. 25D, the applied shop and services under the application is subject to a maximum permissible limit of 460m² for aggregate commercial floor area on G/F of the subject building with a sprinkler system. If the current application (No. A/KC/455) for shop and services is approved, the aggregate commercial floor areas approved (by the Committee) on G/F of the subject buildings will be 180.991m² (i.e. 121.14m² +41.667m² +18.184m²).
- 6.3 Since 2001, the Committee has considered 44 planning applications for various ‘Shop and Services’ uses on the G/F of the industrial buildings and I-O buildings within the “I” zone in the Kwai Chung Industrial/Business Area. The Committee approved 42 of these applications while rejecting two applications mainly on the grounds that the developments were not in line with the planning intention and TPB PG-No. 25D as well as the setting of undesirable precedent.

7. **The Premises and Its Surrounding Areas** (Plans A-1, A-2 and A-3 and photos on Plan A-4)

7.1 The Premises:

- (a) occupies part of Workshop B on the G/F of the subject industrial building;
- (b) is currently vacant; and
- (c) has direct frontage to Kung Yip Street.

7.2 The subject industrial building:

- (a) is a 13-storey industrial building completed in 1978 and equipped with a sprinkler system;
- (b) the current uses by floor are summarised as follows:

Floor	Current Use
G/F	Application premises, bank, convenience store, real estate agency, metalware workshop, money exchange shops, carpark, loading/unloading bays and E&M facilities
1/F to 12/F	Industrial-related offices and warehouses

7.3 The surrounding areas have the following characteristics:

- (a) the developments along both sides of Kung Yip Street, Tai Lin Pai Road and Wah Sing Street are predominately industrial in nature;
- (b) there is a range of mixed industrial and commercial uses in the vicinity of the subject industrial building;
- (c) Tai Lin Pai Road Playground and Tai Lin Pai Road Public Toilet within the “Open Space” and “Government, Institution or Community” zones

respectively are located to the immediate southwest of the subject industrial building; and

- (d) the areas are accessible by public transport.

8. Planning Intention

The planning intention of “I” zone is primarily for general industrial uses to ensure an adequate supply of industrial floor space to meet demand from production-oriented industries. Information technology and telecommunications industries and office related to industrial use are always permitted in the “I” zone.

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/Tsuen Wan and Kwai Tsing, Lands Department (DLO/TW&KT, LandsD):

- (a) The Premises falls within Kwai Chung Town Lot No. 281 and is governed by New Grant No. TW5398 and subject to a temporary waiver dated 20.8.2012. The Premises is restricted to industrial and / or godown purposes excluding offensive trades declared under the Public Health and Municipal Services Ordinance under new Grant No. TW5398 and is permitted for the purpose of a real estate agency under the temporary waiver dated 20.8.2012.
- (b) The proposed use at the Premises contravenes the existing lease conditions. If planning approval is granted, the owner of the Premises needs to apply to LandsD for a temporary waiver for shop and services use. He advised that the proposal will only be considered upon the receipt of formal application from the applicant. He also advised that there is no guarantee that the application, if received by LandsD, will be approved and he reserved his comment on such. The application will be considered by LandsD acting in the capacity as landlord at its sole discretion. In the event that the application is approved, it will be subject to such terms and conditions as the Government shall deem fit to do so, including, among others, charging of waiver fee and administrative fee.

Building Matters

- 9.1.2 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) He has no in-principle objection to the application under the Buildings Ordinance (BO).
- (b) The applicant is reminded that under the BO, no person shall commence or carry out any building works without having first obtained approval and consent from the Building Authority before commencement of works unless they are exempted under section 41 of the BO, or fall within minor works under the Building (Minor Works) Regulation.
- (c) The Premises should be separated from the remainder of the building with adequate fire resistance rating.
- (d) Access and facilities for persons with a disability should be provided in accordance with Building (Planning) Regulation 72 and Design Manual: Barrier Free Access 2008.

Industrial Land Supply

9.1.3 Comments of the Director-General of Trade and Industry (DG of TI):

He has no comment on the application if a temporary approval of five years is imposed as it will not jeopardise the long term use of the Premises for industrial related uses.

Traffic

9.1.4 Comments of the Commissioner for Transport (C for T):

- (a) The Premises is the subject of two applications for shop and services of bank and real estate agency and the loading/unloading activities generated were minimal. With reference to the previously approved applications, the proposed shop and services with a total floor area of 18.184m² would not generate significant amount of loading/unloading activities in the vicinity.
- (b) In view of the above, she has no comment on the application on a temporary basis for a period of five years from traffic engineering perspective provided that all future loading/unloading activities arising out of the application will be confined within the application site and would not cause adverse effects on Kung Yip Street.

Fire Safety

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

- (a) He has no in-principle objection to the application provided that :
 - (i) Fire service installations and water supplies for firefighting are provided to the satisfactory of his department. Detailed fire

safety requirement will be formulated upon receipt of formal submission of general building plans; and

- (ii) Means of escape completely separated from the industrial portion is available for the subject unit.

- (b) The building is provided with a sprinkler system so that the maximum permissible aggregate commercial floor area on G/F is 460m² in accordance with TPB PG-No. 25D. 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 “*Code of Practice for Fire Safety in Building*” which is administered by the Building Authority.

- (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 consulted have no objection to/no comment on the application:

- (a) Chief Architect/Central Management Division 2, Architectural Services Department (CA/CMD2, ArchSD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (d) Chief Highway Engineer/New Territories West, Highways Department (CHE/NT West, HyD);
- (e) Commissioner of Police (C of P);
- (f) Director of Environmental Protection (DEP); and
- (g) District Officer (Kwai Tsing), Home Affairs Department (DO(K&T), HAD).

10. Public Comments Received During Statutory Publication Period

On 27.11.2018, the application was published for public inspection. During the three-week statutory public inspection period ending on 18.12.2018, one public comment from a Kwai Tsing District Council member was received which indicates no comment on the application (**Appendix II**).

11. Planning Considerations and Assessments

11.1 The application is to seek planning permission to use the Premises for the proposed ‘shop and services’ use. According to the recent site inspection, the Premises is currently vacant. The Premises is located within the “T” zone which is to reserve

land primarily for general industrial uses to ensure adequate supply of industrial floor space to meet demand from production-oriented industries. However, commercial uses in industrial buildings may be permitted on application to the Board based on individual merits and the planning assessment criteria as stipulated in the TPB PG-No. 25D. Although the application is considered not entirely in line with the planning intention of the “T” zone, the proposed shop and services can meet such demand in the area. In terms of land use compatibility, the proposed shop and services is also considered not incompatible with the subject building and the surrounding developments.

- 11.2 The proposed use in general complies with the Town Planning Board Guidelines for Use/Development within “Industrial” Zone (TPB PG-No. 25D) in that it would not have adverse traffic or environmental impact on the developments within the subject building and the adjacent areas. Relevant Government departments consulted including DEP, CBS/NTW, BD and C for T have no objection to/no comment on the application.
- 11.3 As confirmed by D of FS, the subject industrial building is equipped with a sprinkler system and subject to a maximum permissible limit of 460m² for aggregate commercial floor area on G/F in accordance with TPB PG-No. 25D. If the current application is approved, the aggregate commercial floor area approved by the Committee on the G/F of the subject building will be 180.991m², which is within the maximum permissible limit of 460m² as stated above. In this regard, D of FS has no in-principle objection to the application. To address D of FS’s comment, approval condition on fire service measures are recommended in paragraph 12.2 below.
- 11.4 A total of ten applications for ‘Shop and Services’ use on G/F of the subject industrial building were approved by the Committee (**Plans A-1 and A-3**). Among them, two previous applications (No. A/KC/88 and 379) for shop and services (bank) and shop and services (real estate agency) were approved by the Committee on 12.1.1990 and 6.12.2011 respectively. The remaining eight similar applications were approved with conditions between 1981 and 2017. 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.
- 11.5 The applicant submits application for the proposed use on a permanent basis. C of T and DG of TI advise that they have no comment on the application if a temporary approval of five years is imposed. In order not to jeopardize the long-term planning intention of the industrial use for the Premises, an approval on a temporary basis of five years is recommended. This is also consistent with the Committee’s previous decisions on approving similar applications on a temporary basis since the promulgation of the TPB PG-No. 25D.
- 11.6 One public comment on the application was received, which indicates no comment on the application.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 above, the Planning Department has no objection to the application on a temporary basis for a period of five years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of five years until 18.1.2024. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval conditions

- (a) the submission and implementation of fire safety measures, including the provision of fire service installations and water supplies for firefighting in the application premises and a means of escape separated from the industrial portion 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, 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 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

Appendix I	Application Form received on 22.11.2018
Appendix II	Public comment received
Appendix III	Recommended Advisory Clauses
Drawing A-1	Ground Floor Plan submitted by the applicant
Drawing A-2	Layout Plan submitted by the Applicant
Plan A-1	Location Plan

Plan A-2	Site Plan
Plan A-3	Previous and Similar Applications on Ground Floor, Effort Industrial Building
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JANUARY 2019**