

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K5/821

- Applicant** : Well Yuen Properties Limited represented by Grandmax Surveyors Limited
- Premises** : Portion of Workshop C4, G/F, Block C, Hong Kong Industrial Centre, 489-491 Castle Peak Road, Cheung Sha Wan, Kowloon
- Floor Area of Premises** : About 55.75m²
- Lease** : (a) New Kowloon Inland Lot (NKIL) No. 3515 s.C, s.D and s.F
(b) Restricted for factory purpose
(c) By a Waiver Letter dated 25.1.2005, the Premises is permitted for showroom and ancillary storage purposes
- Plan** : Approved Cheung Sha Wan Outline Zoning Plan (OZP) No. S/K5/37
- Zoning** : “Other Specified Uses” annotated “Business (2)” (“OU(B)2”)

[Restricted to a maximum plot ratio (PR) of 12 and a maximum building height (BH) of 130mPD, or the PR/BH of the existing building, whichever is the greater. A minimum setback of 3.5m from the lot boundary abutting Castle Peak Road shall be provided.]
- Application** : Shop and Services

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Shop and Services’. The Premises occupies a portion of Workshop C4 on the G/F of an existing industrial building namely Block C of Hong Kong Industrial Centre, which falls within an area zoned “OU(B)2” on the approved Cheung Sha Wan OZP No. S/K5/37 (**Plan A-1**). According to Schedule II of the Notes of the OZP for the “OU(B)” zone applicable to industrial or industrial-office (I-O) building, ‘Shop and Services (not elsewhere specified)’ on the G/F of an industrial building requires planning permission from the Town Planning Board (the Board).

- 1.2 Part of the Premises is the subject of a previous application No. A/K5/805 submitted by the same applicant for proposed 'Shop and Services' use (**Plan A-2a**). The application was approved with conditions by the Metro Planning Committee (the Committee) of the Board on 16.8.2019. Due to non-compliance with the approval condition on the submission and implementation of fire safety measures, the planning permission was revoked on 28.7.2020.
- 1.3 As shown on the floor plan on **Drawing A-1**, the Premises is accessible directly from Castle Peak Road. The floor plan and layout plan showing the Premises, as submitted by the applicant, are at **Drawings A-1** and **A-2** respectively. The Premises is currently used as a money exchange and a retail shop without valid planning application (**Plan A-3**).
- 1.4 In support of the application, the applicant has submitted an application form which was received on 13.7.2020 (**Appendix I**).

2. Justifications from the Applicant

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

- (a) a portion of the Premises is the subject of a previous planning application A/K5/805 of the same use which was approved by the Committee;
- (b) the applied use is in line with the planning intention of the "OU(B)" zone and it is compatible with the uses in the surrounding area which is under transformation and other uses in the G/F of the same building;
- (c) there is demand for shop and services in the neighbourhood as there is an increasing number of redevelopments in the locality;
- (d) if the applied use is approved, the aggregate commercial floor area on the G/F of the subject industrial building, which is equipped with a sprinkler system, would not be exceeded 460m² and is within the maximum permissible limit under the Town Planning Board Guidelines for Development within "OU(B)" Zone (TPB PG-No. 22D);
- (e) the applied use will not induce adverse impact and fire risk and the applicant would implement fire services installations at the Premises; and
- (f) there are similar approved applications for 'Shop and Services' uses on the G/F of the industrial buildings in the locality.

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 are 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 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. 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 Applications (Plans A-2a and A-2b)

- 5.1 The Premises is the subject of four previous planning applications (Nos. A/K5/133, 168, 535 and 805). Planning application Nos. A/K5/168, A/K5/535 and A/K5/805 were submitted by the same applicant of the current application. As the site was rezoned from “Industrial” (“I”) to “OU(B)” in 2001 and subsequently from “OU(B)” to “OU(B)2” in 2010, Application Nos. A/K5/133 and A/K5/168 were considered by the Committee/Board in 1991 and 1993 respectively when the site was zoned “I” on the OZP while Application Nos. A/K5/535 and A/K5/805 were considered by the Committee in 2003 and 2019 respectively when the site was zoned “OU(B)” and “OU(B)2” on the OZP.
- 5.2 Application No. A/K5/133 (**Plan A-2b**) for retail shops and wholesale centre was rejected upon review by the Board on 16.8.1991 mainly on the grounds that the

wholesale centre was not directly ancillary to industries in the industrial building/area; alternative commercial floor space suitable for garment wholesale activities were available in the vicinity; and approval for the application would set an undesirable precedent for other cases.

- 5.3 Application No. A/K5/168 (**Plan A-2a**) for showroom use was approved with conditions by the Committee on 23.7.1993, while Application No. A/K5/535 (**Plan A-2a**) for showrooms for garments was approved with condition by the Committee on 15.8.2003. The approval condition of Application No. A/K5/535 in relation to the provision of fire service installations was not complied with.
- 5.4 Application No. A/K5/805 (**Plan A-2a**) for proposed ‘Shop and Services’ use was approved with conditions by the Committee on 16.8.2019. The planning permission was revoked on 28.7.2020 due to non-compliance with the approval condition on the submission and implementation of fire safety measures.
- 5.5 Details of the previous applications are at **Appendix II**.

6. Similar Applications

- 6.1 Since the site was rezoned from “I” to “OU(B)” in 2001, the Committee has considered a total of 23 applications (including the previous applications Nos. A/K5/535 and A/K5/805 mentioned in paragraph 5 above) for ‘Shop and Services’/‘Showroom’ uses on G/F of the subject industrial building (**Plan A-2a**)¹. All of these applications were approved by the Committee. The details of the approved applications are shown in the table below.

Application No.	Unit No.	Proposed Use	Floor Area (m ²)	Date of Consideration	Decision
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/K5/757	C7	Shop and Services	208.5	17.10.2014	Approved with conditions
A/K5/765	C2 (Portion)	Shop and Services	45	17.7.2015	Approved with conditions
A/K5/785	C1 (Portion)	Shop and Services (Estate Agency)	12.4	22.9.2017	Approved with conditions

¹ When the site was zoned “I” before it was rezoned to “OU(B)” in 2001, there were a total of 30 planning applications including two previous applications (Nos. A/K5/133 and A/K5/168 mentioned in paragraph 5) for showroom, retail shop and office uses at the G/F of the subject industrial building. Out of these 30 applications, 22 applications were approved with conditions and eight were rejected. The 22 approved applications either lapsed, expired or use (Showroom) that is not applicable for the maximum permissible limit of 460m² for aggregate commercial floor area on G/F of an industrial building, and hence they are not included in the table of paragraph 6.1.

Application No.	Unit No.	Proposed Use	Floor Area (m ²)	Date of Consideration	Decision
A/K5/805	C4 (Portion)	Proposed Shop and Services	12.612	16.8.2019 (Revoked)	Approved with conditions
Total Approved Commercial Floor Area*:			265.9 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/K5/508	C2	Showroom for a Period of 3 Years	192.42	13.9.2002 (Expired)	Approved
A/K5/532	C1	Showroom for Garments and Ancillary Storage for a Period of 3 Years	392.5	27.6.2003 (Expired)	Approved with condition on a temporary basis
A/K5/535	C4	Showroom for Garments	194.3	15.8.2003	Approved with condition
A/K5/536	C6 (Portion)	Showroom for Garments	276.91	15.8.2003	Approved with condition
A/K5/538	C8	Showroom for Garments	239.97	19.9.2003	Approved with conditions
A/K5/544	C5	Shop and Services (Showroom) for a Period of 3 Years	239.97	9.1.2004 (Expired)	Approved with condition on a temporary basis
A/K5/545	C13	Shop and Services (Showroom with Ancillary Storage)	347	9.1.2004	Approved with condition
A/K5/546	C10	Shop and Services (Showroom with Ancillary Storage)	367	9.1.2004	Approved with condition
A/K5/547	C11	Shop and Services (Showroom with Ancillary Storage)	196	9.1.2004	Approved with condition
A/K5/548	C9	Shop and Services (Showroom with Ancillary Storage)	243	9.1.2004	Approved with condition
A/K5/551	C7	Shop and Services (Showroom) for a Period of 3 Years	217	9.1.2004 (Expired)	Approved with condition on a temporary basis
A/K5/559	C12	Shop and Services (Showroom) for a Period of 3 Years	184.2	26.3.2004 (Expired)	Approved with condition on a temporary basis
A/K5/563	C2 (Portion)	Shop and Services (Retail Shop) for a Period of 3 Years	10.31	14.5.2004 (Expired)	Approved with condition on a temporary basis

Application No.	Unit No.	Proposed Use	Floor Area (m ²)	Date of Consideration	Decision
A/K5/603	C3 (Portion)	Temporary Shop and Services (Showroom for Garments) for a Period of 3 Years	122.907	13.1.2006 (Expired)	Approved with conditions on a temporary basis
A/K5/609	C1	Temporary Shop and Services Use (Showroom for Garments) for a Period of 3 Years	392.5	17.3.2006 (Expired)	Approved with conditions on a temporary basis
A/K5/618	C2	Temporary Shop and Services (Showroom for Garments) for a Period of 3 Years	192.42	1.9.2006 (Expired)	Approved with conditions on a temporary basis
A/K5/667	C3 (Portion)	Shop and Services (Showroom for Garments)	122.907	13.2.2009	Approved with conditions
A/K5/673	C1	Shop and Services (Showroom for Garments)	332.45	8.5.2009	Approved with conditions
A/K5/684	C2	Shop and Services (Showroom for Garments)	192.42	4.12.2009	Approved with conditions

**The total floor areas have excluded the floor areas in overlapping premises and approved cases of which planning permissions have been lapsed, revoked or expired.*

6.2 According to TPB PG-No. 22D, the applied ‘Shop and Services’ use under the application is subject to a maximum permissible limit of 460m² for aggregate commercial floor area on G/F of the subject industrial building with a sprinkler system. If the application is approved, the aggregate commercial floor areas approved (by the Committee) on G/F of the subject industrial building will be 321.65m², which is within the maximum permissible limit.

6.3 Since 2001, the Committee has considered 151 planning applications for various ‘Shop and Services’ uses on the G/F of the industrial and I-O buildings within the “OU(B)” zone in the Cheung Sha Wan Industrial/Business Area. The Committee approved 141 of these applications while rejecting ten applications mainly for fire safety reasons.

7. The Site and Its Surrounding Areas (Plans A-1, A-2 and A-2a and Photos on Plan A-3)

7.1 The Premises:

- (a) occupies a portion of Workshop C4 on G/F of Block C of Hong Kong Industrial Centre;

- (b) has direct frontage to Castle Peak Road; and
- (c) is currently used as a money exchange and a retail shop without valid planning permission.

7.2 The subject industrial building has the following characteristics:

- (a) is a 14-storey industrial building (including one level of basement for car parking spaces) completed in 1982 and equipped with a sprinkler system; and
- (b) is currently used for the following purposes:

Floor	Main Uses
G/F	The Premises , showrooms, fast food shop, money exchanges and real estate agencies*
1/F to 12/F	Industrial-related offices/trading firms, warehouses and workshops

* No record of planning approval granted for two of the real estate agencies in Workshops C3 and C5 (**Plan A-2a**).

7.3 The surrounding areas have the following characteristics:

- (a) it is an established industrial/business area in Cheung Sha Wan (which was rezoned from “I” to “OU(B)” in 2001 and 2002);
- (b) the subject industrial building is surrounded mainly by industrial and I-O buildings with ‘Shop and Service’ uses on G/F; and
- (c) it is easily accessible by various modes of public transport with MTR Lai Chi Kok Station located at about 200m to the south of the subject industrial building (**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 summarised as follows:

Land Administration

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

- (a) the Premises falls within NKIL No. 3515 s.C, s.D and s.F (“the Lot”) which is governed by the Conditions of Sale No. UB4268 dated 1.4.1948 as varied or modified by Conditions of Exchange (and Modification) No. 4481 dated 28.8.1950 (“the Conditions”) for factory purposes. By a Waiver Letter dated 25.1.2005, the Premises is permitted for showroom and ancillary storage purposes; and
- (b) the proposed shop and services use at the Premises does not comply with the Conditions nor the Waiver Letter. If the planning application is approved by the Board, the owner of the Premises has to apply to LandsD for a waiver or no-objection letter for the proposed use. However, there is no guarantee that the approval will be given. If the application is approved by LandsD acting in the capacity as the private landlord at its sole discretion, it will be subject to payment of fee/premium and imposition of other terms as may be appropriate.

Building Matters

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

- (a) no in-principle objection to the application;
- (b) the applicant is advised to engage an Authorised person to ensure that any alterations and additions/change in use are implemented in compliance with the Buildings Ordinance (BO);
- (c) under section 14(1) of 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;
- (d) detailed comments under the BO would be provided at the building plan submission stage; and
- (e) attention of the applicant should be drawn that “no objection” to the application should not be constructed as an acceptance of any unauthorised building work (UBW) on the Premises under the BO. Enforcement action may be taken by the Building Authority to effect their removal in accordance with the BD’s enforcement policy against UBW as and when necessary.

Traffic

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

- (a) no in-principle objection to the application at nil provisions of car parking and loading/unloading spaces given that the small and constrained site layout; conveniently located to mass transport/public transport services; and small scale of development; and
- (b) attention of the applicant should be drawn that C for T has the rights to impose, alter or cancel any car parking, loading/unloading 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 subject development.

Fire Safety

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

- (a) no in-principle objection to the application subject to:
 - (i) fire service installations and equipment being provided to the satisfaction of his Department. Detailed fire safety 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 provided 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 “Code of Practice for Fire Safety in Buildings” which is administered by the Building Authority; and
- (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 or no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);

- (b) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (c) Chief Highway Engineer/Kowloon, Highways Department (CHE/K, HyD);
- (d) Commissioner of Police (C of P); and
- (e) District Officer (Sham Shui Po), Home Affairs Department (DO(SSP), HAD).

10. Public Comments Received During Statutory Publication Period

During the three-week statutory public inspection period, two public comments were received. Both were from individuals with one supporting the application as the applied use helps boost economic growth in the Sham Shui Po District and one stating no comment (**Appendix III**).

11. Planning Considerations and Assessments

- 11.1 The application is to seek planning permission to use the Premises for ‘Shop and Services’ use. The Premises is currently used as a money exchange and a retail shop without valid planning permission. The planning intention of the “OU(B)” zone is intended primarily for general business uses. It allows greater flexibility in the use of the existing industrial or I-O buildings provided that the use would not result in adverse fire safety or environmental impacts. The applied use at the Premises is considered generally in line with the planning intention.
- 11.2 The Cheung Sha Wan Industrial/Business Area is being transformed into commercial/business uses 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 considered compatible with the changing land use character of the area. Moreover, the applied use is considered not incompatible with other uses of the same industrial building which mainly comprises shop and services and showrooms on the G/F and industrial-related offices/trading firms, warehouses and workshops on the upper floors.
- 11.3 The applied use in general complies with TPB PG-No. 22D in that it would not induce adverse fire safety, traffic and infrastructural impacts on the developments within the subject building and the adjacent areas. Relevant Government departments including D of FS, C for T, CBS/K of BD, CE/C of WSD and CE/MS of DSD have no comment on/no objection to the application.
- 11.4 As confirmed by D of FS, the subject industrial building is protected by 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. 22D. If the applied ‘Shop and Services’ use is approved, the aggregate commercial floor area approved by the Committee on the G/F of the subject industrial building will be 321.65m², which is within the maximum permissible limit. To address D of FS’s concern on fire safety aspect, approval conditions in paragraphs 12.2(a) and (b) below to require the submission and implementation of the proposal for fire safety measures respectively to the satisfaction of D of FS are recommended.

- 11.5 As the shop and services has been in operation on the Premises and that the previous permission (No. A/K5/805) granted to the same applicant for the same use was revoked due to non-compliance with the approval condition on the submission and implementation of the fire safety measures within the specified time limit, a shorter compliance period of three months and six months for the submission and implementation of proposal for fire safety measures respectively 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 conditions again resulting in the revocation of the planning permission, sympathetic consideration might not be given to any further application.
- 11.6 A total of 23 applications for 'Shop and Services' use on the G/F of the subject industrial building were approved with condition(s) by the Committee since 2001 (Table of paragraph 6.1 above and **Plan A-2a** refer). 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.
- 11.7 Two public comments on the application were received, one supporting the application and one stating no comment 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 operation. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval conditions

- (a) the submission of a proposal for fire safety measures within three months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 4.12.2020;
- (b) in relation to (a) above, the implementation of the fire safety measures within six months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 4.3.2021; 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 IV**.

- 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, 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 with planning justification
Appendix II	Previous Applications
Appendix III	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	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-2a	Location Plan of applications on G/F of Block C, Hong Kong Industrial Centre
Plan A-2b	Location Plan of application on G/F of Blocks B and C, Hong Kong Industrial Centre
Plan A-3	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2020**