

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

**APPLICATION NO. A/KC/458**

- Applicant** : Dorson Development Limited Represented by Innovative Development Company
- Premises** : Workshop No. 2D, Ground Floor, Join-In Hang Sing Centre, 71-75 Container Port Road, Kwai Chung, New Territories
- Floor Area** : About 23m<sup>2</sup>
- Lease** : Kwai Chung Town Lot No. 372 under New Grant No. 5631 restricted to industrial and/or godown purposes excluding offensive trade
- 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 90 metres above Principal Datum, or the PR/BH of the existing building, whichever is the greater.]
- Application** : Shop and Services

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) at Workshop No. 2D on the ground floor (G/F) of an existing industrial building (Join-In Hang Sing Centre) for ‘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 a previous application No. A/KC/403 for ‘shop and services’ use submitted by a different applicant, which was approved with conditions by the Metro Planning Committee (the Committee) of the Board on

7.6.2013 for a period of three years. However, the planning approval was revoked on 7.12.2013 since the approval condition in relation to the submission and implementation of fire safety measures was not complied with before the due date. According to site inspection, the Premises is currently used as a real estate agency without a valid planning permission.

- 1.3 The G/F floor plan and layout plan showing the location of the Premises on G/F and the dimension of the Premises are at **Drawings A-1 and A-2** respectively.
- 1.4 In support of the application, the applicant has submitted the following documents:
  - (a) Application Form received on 11.2.2019 (Appendix I)
  - (b) Further Information received on 8.3.2019 (Appendices Ia and Ib)

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

The justifications put forth by the applicant in support of the application are set out at **Appendices I, Ia and Ib** which are summarised as follows:

- (a) the applied use can flexibly utilise the Premises and enhance the possible uses for the unit; and
- (b) the Premises is currently used as a real estate agency which mainly offers the service of arranging site inspections for potential tenants to the nearby industrial buildings. Only three staff is involved and the number of customers per day is about five to ten. Generally speaking, the Premises only serves as an office for signing contracts and for most of the time the staff and customers will be out of the office for site inspections. As such, the applied use will not generate significant pedestrian and traffic flow. Moreover, on-street parking is not allowed in the surrounding area.

## **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 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 (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 Application

The Premises is the subject of a previous application (No. A/KC/403) for 'shop and services' use approved with conditions by the Committee on 7.6.2013 for a period of three years (**Plan A-3**). However, the planning approval was revoked on 7.12.2013 since the approval condition in relation to the submission and implementation of fire safety measures was not complied with before the due date.

## 6. Similar Application

- 6.1 Other than the application mentioned in paragraph 5 above, there is no other similar planning application for 'Shop and Services' use on the G/F of the subject industrial building.
- 6.2 Since 2001, the Committee has considered 46 planning applications for various 'Shop and Services' uses on the G/F of the industrial buildings and I-O buildings within the "T" zone in the Kwai Chung Industrial/Business Area. The Committee approved 44 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 Workshop No. 2D on the G/F of the subject industrial building;
- (b) is currently used as a real estate agency (**Plan A-4**); and
- (c) has direct frontage to Container Port Road.

7.2 The subject industrial building:

- (a) is a 14-storey industrial building completed in 1981 which is equipped with sprinkler system;
- (b) the current uses by floor are summarised as follows:

Floor	Current Use
G/F	<b>Application premises</b> , factory canteen, industrial-related offices/trading firms, warehouse, vacant unit, carpark and loading/unloading bays
1/F	Carpark, loading/unloading bays and industrial-related offices/trading firms
2/F to 13/F	Industrial uses and industrial-related offices/trading firms

7.3 The surrounding areas have the following characteristics:

- (a) the developments along Container Port Road and Kwai Fung Crescent are predominately industrial in nature;
- (b) there is a range of mixed industrial and commercial uses in the vicinity of the subject industrial building; and
- (c) it is easily accessible by various modes of public transport with MTR Kwai Fong Station located at about 300m northeast of the subject industrial building.

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. 372 which is held under New Grants No. 5631 restricted to industrial and / or godown purposes excluding any offensive trade. As such, the proposed 'shop and services' use at the Premises is not acceptable under the New Grant.
- (b) Should the application be approved by the Board, the owner of the Premises needs to apply to LandsD for a temporary waiver for 'shop and services' use. There is no guarantee that the application will be approved. The temporary waiver will be considered by LandsD acting in the capacity as landlord at its sole discretion. Any approval, if given, will be subject to such terms and conditions including, inter alia, payment of waiver fee and administrative fee as may be approved by LandsD.

**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 a previous application for shop and services and the loading/unloading activities generated were minimal. With reference to the previously approved application and the further information submitted by the applicant (**Appendix Ia**), the proposed shop and services with a total floor area of 23m<sup>2</sup> 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.

### **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.
  - (ii) Means of escape completely separated from the industrial portion are available for the areas under application.
- (b) The building is protected with a sprinkler system so that the maximum permissible aggregate commercial floor area on G/F is 460m<sup>2</sup> 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 Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (c) Chief Highway Engineer/New Territories West, Highways Department (CHE/NT West, HyD);
- (d) Commissioner of Police (C of P);
- (e) Director of Environmental Protection (DEP); and
- (f) District Officer (Kwai Tsing), Home Affairs Department (DO(K&T), HAD).

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

On 19.2.2019, the application was published for public inspection. During the three-week statutory public inspection period ending on 12.3.2019, no public comment was received.

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

- 11.1 The application is to seek planning permission to use the Premises for ‘shop and services’ use. According to the recent site inspection, the Premises is currently used as a real estate agency. The Premises is located within the “I” 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 “I” 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 locality. Relevant Government departments consulted including C for T and DEP 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 460m<sup>2</sup> 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 23m<sup>2</sup>, which is within the maximum permissible limit of 460m<sup>2</sup> as stated above. In this regard, D of FS

has no in-principle objection to the application. To address D of FS's comment, an approval condition on fire safety measures is recommended in paragraph 12.2(a) below.

- 11.4 A previous application (No. A/KC/403) for 'Shop and Services' use on G/F of the subject industrial building was approved with conditions by the Committee for a period of three years (**Plan A-3**). **However, the planning approval was revoked on 7.12.2013 since the approval condition in relation to the submission and implementation of fire safety measures was not complied with before the due date. With basically no change in planning circumstances, the approval of the application would be consistent with the previous decisions of the Committee on similar applications. However, given the non-compliance with approval condition as mentioned above, a shorter compliance period is recommended for the subject application to closely monitor the progress of compliance with the approval conditions on submission and implementation of fire safety measures should the Committee decide to approve the application. The applicant should also be advised that if he fails to comply with the approval conditions resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.**
- 11.5 The applicant submits application for the proposed use on a permanent basis. C for 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 jeopardise 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 No public comment on the application was received during the statutory public inspection period.

## **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 22.3.2024. The following conditions of approval and advisory clauses are suggested for Members' reference:

### Approval conditions

- (a) **the submission of fire safety measures, including the provision of fire service installations, within three months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 22.6.2019;**



- (b) the implementation of fire safety measures, including the provision of fire service installations, within six months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 22.9.2019; and
- (c) if the above planning conditions (a) or (b) 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 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**

<b>Appendix I</b>	Application Form received on 11.2.2019
<b>Appendices Ia and Ib</b>	Further Information received on 8.3.2019
<b>Appendix II</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Ground Floor Plan submitted by the applicant
<b>Drawing A-2</b>	Layout Plan submitted by the Applicant
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Previous Application on Ground Floor, Join-in Hang Sing Centre
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MARCH 2019**