

# **TOWN PLANNING BOARD**

**TPB Paper No. 10547**

**For Consideration by  
the Town Planning Board on 14.6.2019**

**REVIEW OF APPLICATION NO. A/K11/232  
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE  
TEMPORARY PLACE OF RECREATION, SPORTS OR CULTURE  
(SPORTS TRAINING GROUND) FOR A PERIOD OF 3 YEARS  
IN “OTHER SPECIFIED USES” ANNOTATED “BUSINESS” ZONE  
UNITS D AND E, G/F, PRINCE INDUSTRIAL BUILDING,  
706 PRINCE EDWARD ROAD EAST, SAN PO KONG, KOWLOON**

**REVIEW OF APPLICATION NO. A/K11/232  
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Temporary Place of Recreation, Sports or Culture (Sports Training Ground)  
for a Period of 3 Years in “Other Specified Uses” annotated “Business” Zone  
Units D and E, G/F, Prince Industrial Building,  
706 Prince Edward Road East, San Po Kong, Kowloon**

**1. Background**

- 1.1 On 10.9.2018, the applicant, Just Climb Association Limited represented by Toco Planning Consultants Limited, sought planning permission to use the application premises (the Premises) for temporary sports training ground use for a period of 3 years under section 16 of the Town Planning Ordinance (the Ordinance). The Premises occupies part of the G/F (365m<sup>2</sup>) of an existing industrial building, namely, Prince Industrial Building. The building falls within an area zoned “Other Specified Uses” annotated “Business” (“OU(B)”) on the approved Tsz Wan Shan, Diamond Hill and San Po Kong OZP No. S/K11/29 (**Plan R-1**).
- 1.2 On 1.2.2019, the Metro Planning Committee (MPC) rejected the application on the ground that the sports training ground use at the Premises was considered not acceptable from the fire safety point of view.
- 1.3 For Members’ reference, the following documents are attached:
- (a) MPC Paper No. A/K11/232 (Annex A)
  - (b) Extract of minutes of the MPC meeting held on 1.2.2019 (Annex B)
  - (c) Secretary of the Board’s letter dated 22.2.2019 (Annex C)

**2. Application for Review**

On 14.3.2019, the applicant applied under section 17(1) of the Ordinance for a review of the MPC’s decision to reject the application, and a written representation was submitted in support of the review (**Annex D**).

**3. Justifications from the Applicant**

The justifications put forth by the applicant in support of the review application are detailed in the applicant’s submission (**Annex D**). Most of the justifications are same

as those mentioned in the planning statement of section 16 application with elaborations on matters pertaining to fire safety as summarized below:

- (a) The Premises is completely separated from the uses located above by a carpark floor, and also separated from other units at the same floor by a common passage with sprinkler system. In order to provide additional buffer distance, a maintenance area with a width of 1.5m (inaccessible by patrons) has been provided within the premises next to the common passage (**Drawing R-2**).
- (b) There are fire safety measures provided within the Premises and additional FSIs will be installed properly, such as permanently removing several exits by setting up the walls with 2 hours (-/120/120) Fire Resistance Rating (FRR) (**Drawing R-2**). The applicant undertakes to carry out the improvement of fire safety measures to ensure necessary fire separation to meet the statutory standards.
- (c) The existing entrance and the proposed exit as means of escape (MoE) leading to the Prince Edward East Road without passing through any common corridors is provided in the Premises. Patrons or employees of the premises will not be exposed to dangers or risk under unfamiliar industrial setting. Crowd control measures will be implemented to ensure smooth and orderly retreat from the premises in case of fire.
- (d) The maximum number of people based on on-site survey is about 25 visitors and 6 staffs per hour during business hours. The peak hours of the Premises is after 6:00pm on weekdays and after 2:00pm on Saturday, and therefore the fire risk in the building will be largely reduced as the peak hours mentioned is off-hours for workers.
- (e) The Premises would not be opened to public and only be opened for members with prior appointment. All members are required to watch the fire safety video before signing the agreement. All training sessions must be reserved beforehand through advanced “visit-by-appointment” booking system in order to be able to manage and control the maximum number of visitors.
- (f) According to the applicant’s knowledge, those units located at the same ground floor are mainly water pumps repair workshops and have no dangerous goods or chemicals to be stored at the units. The Premises will not result in higher potential risks in terms of fire and hazards associated with fumes and explosives.
- (g) The temporary approval for a period of 3 years will allow better planning control. The applicant will make full effort to implement the proposed fire safety and management measures, and the applicant is well aware that failure to fulfil the planning approval conditions can result in the revocation of the planning approval.
- (h) The applied use will not set an undesirable precedent since the Premises is totally separated from the other industrial portions. It is well served by ample fire fighting facilities such as sprinkler system. The two rejected similar

applications (Nos. A/K14/722 and 734) as mentioned in paragraph 6.2 of **Annex A** are located on 1/F and 2/F of the building without satisfactory MoE.

#### **4. The Section 16 Application**

The Premises and its Surrounding Areas (**Drawings R-2 and R-3, Plans R-1 and R-2** and photos on **Plans R-3 to R-5**)

- 4.1 The situations of the Premises and their surrounding areas at the time of the consideration of the section 16 application by the MPC are described in paragraph 7 of **Annex A**. There has been no material change of the situations since then.

##### Planning Intention

- 4.2 There has been no change of the planning intention of the “OU(B)” zone, which is mentioned in paragraph 8 of **Annex A**.

##### Town Planning Board Guidelines

- 4.3 The TPB Guidelines for Development within “OU(B)” Zone (TPB PG-No. 22D) are relevant to this application. The relevant assessment criteria are summarized in paragraph 4 of **Annex A**.

##### Previous and Similar Applications

- 4.4 The previous and similar applications are mentioned in paragraphs 5 and 6 of **Annex A**.

#### **5. Comments from Relevant Government Departments**

- 5.1 Comments on the section 16 application made by relevant Government departments are stated in paragraph 9 of **Annex A**.
- 5.2 For the review application, the relevant Government departments have been further consulted and further advice from Director of Fire Services (D of FS) on the review application are summarized as follows:

##### **Fire Safety**

- 5.2.1 The member-only scheme could not reduce the potential fire risks of visitors inside the Premises within the subject industrial building (IB) and the proposed use would attract visitors to stay for long periods of time in the subject IB exposing them to fire risk associated with industrial activities which they were neither aware of nor prepared to face.
- 5.2.2 Regarding the claim by the applicant that the Premises is completely

separated from other industrial uses by common passage with sprinkler system at the same floor and by a car park buffer floor above, it is considered that the common passage could not provide effective buffer between the Premises and the industrial uses since industrial operations could be found within the same floor.

5.2.3 D of FS maintains his previous views on the section 16 application which are summarized as follows:

- (a) The subject application for ‘‘Place of Recreation, Sports or Culture (Sports Training Ground)’ use on G/F of Prince Industrial Building is considered unacceptable from fire safety point of view and with the grave concern on the much higher potential risk of fire and accident in industrial buildings (IBs) arising from the modus operandi of industrial undertakings.
- (b) It is evidenced from statistics that the size of developed fires and magnitude of accidents in IBs were usually large and severe due to bulk storage and use of combustible materials, hazardous chemicals or a mix of them with various dangerous goods associated with industrial undertakings. It is inherent that persons in IBs are exposed to higher life risk.
- (c) The fire safety concerns associated with commercial activities within an IB are summarized as follows:-
  - i. Unpreparedness of the non-industrial related visitors in facing the potential risks inside and outside IBs and their unfamiliarity with the setting and environment of the IBs, rendering their escape materially much more difficult;
  - ii. Much higher potential risks in terms of fire and hazards presented by industrial activities;
  - iii. Intensive physical assistance required by visitors who are children, old, infirm and handicapped in case of fire or other calamities. However, adequate assistance will most unlikely be available immediately, thus putting their lives in grave peril;
  - iv. Difficulties which will jeopardize escape in case of emergencies, e.g. smoke/ fire / explosion, chemical hazards, etc; and
  - v. Even in non-emergency, increased risk of exposure to chemical hazards due to loading and unloading activities inside, including common areas, and in the vicinity of IBs.
- (d) The co-existence of industrial and non-industrial uses is therefore considered incompatible unless there is a physical separation between the industrial and non-industrial portions

along with a number of additional requirements to be complied with in order to mitigate the above-mentioned risk posed to the non-industrial related visitors. This Department may accept the non-industrial related activities in IBs under the following conditions:

i. Partial change of use from industrial to commercial on G/F of an IB

Certain commercial uses are allowed on the ground floor of an existing IB with the aggregate commercial floor areas not exceeding 460 m<sup>2</sup> (with full sprinkler protection to the IB) and 230 m<sup>2</sup> (without full sprinkler protection to the IB) respectively. In addition to the limitation on the floor area, the MoE of the commercial uses area should be completely separated from the industrial portion. Such commercial uses should not attract unreasonably large number of persons to stay for long periods of time, as in this case (i.e. place of recreation, sports or culture).

ii. Total change of use from industrial to commercial below a buffer floor

The lowest three floors are allowed to be wholly converted to commercial uses if such commercial portion is separated from the industrial portion by a buffer of non-hazardous occupancy, such as a carparking floor, provided that the following conditions are fulfilled:-

- measures acceptable to FSD shall be imposed to ensure the 'carpark' would not be changed for commercial or industrial use;
- the alteration and addition works to be submitted through the Centralized Processing System of Buildings Department under the Buildings Ordinance (BO) Cap 123 that:
  - fire service installations shall be provided in accordance with the prevailing “Code of Practice for Minimum Fire Service Installations and Equipment”;
  - the lower non-industrial portion should be completely separated from the upper industrial portion (including the buffer floor). Connection between the two portions is not allowed (i.e. individual MoE, means of access, entrance lobby, lift, etc. are required) to avoid the co-use of common areas by industrial activities (e.g. loading / unloading of dangerous goods and chemical)

with members of the public in the commercial portion and facilitate a more effective evacuation in case of emergency; and

- the buffer floor shall be separated from the lower non-industrial portion and the upper industrial portion by floor slabs, walls or doors having an FRR of not less than that required for the elements of construction.

5.3 The following Government departments have no further comments on the review application and maintain their previous views on the section 16 application. Their previous views are also summarized as follows:

#### **Land Administration**

5.3.1 Comments of the District Lands Officer/Kowloon East, Lands Department (DLO/KE, LandsD):

- (a) The Premises is located at NKIL 4793 which is held under a Government Lease dated 14.5.1968. The lot is restricted for the use of industrial and/or godown purposes excluding offensive trades. The Premises has been used for indoor climbing gym, which is in breach of the lease conditions. Warning letter requiring the landlord to purge the said breach was registered in the Land Registry on 15.3.2018.
- (b) The proposed 'Place of Recreation, Sports or Culture (Sports Training Ground)' use is in breach of the lease conditions governing the Premises. If the planning application is approved by the Board, the lot owner has to apply to the LandsD for a lease modification or a temporary waiver to implement the proposal. However, there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including the payment of a wavier fee, as considered appropriate by the LandsD acting in the capacity of landlord.

#### **Building Matters**

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

- (a) No in-principle objection to the application.
- (b) Detailed comments from BO perspective are in paragraph (d) of **Annex E**.
- (c) Detailed comments under the BO can only be provided at the building plan submission stage.

### **Licensing Aspect**

#### 5.3.3 Comments of the Chief Officer (Licensing Authority), Home Affairs Department (CO(LA), HAD):

- (a) No objection to the application under the Clubs (Safety of Premises) Ordinance, Cap 376 (CuSPO).
- (b) In the absence of details of the mode of operation of the proposed sports training ground, he wishes to point out that in the event for the mode of operation of the aforesaid use falls within the definition of “club” under the CuSPO, a Certificate of Compliance (CoC) for club-houses will have to be obtained from the Office of the Licensing Authority (OLA) before its operation.
- (c) The OLA will not normally issue CoC for club-houses situated in an industrial building (except on the ground floor), unless such application is supported by evidence showing that the Building Authority has granted approval/acceptance of the change of use of the premises specifically from industrial to club use. In such case, OLA would process the application for CoC in accordance with the CuSPO upon receipt of a formal application, during which detailed requirements would be issued to the applicant after a site inspection is conducted by staff of OLA.

### **Food and Environmental Hygiene**

#### 5.3.4 Comments of the Director of Food and Environmental Hygiene (DFEH):

The proposed sport training ground does not fall within the definition of place of public entertainment and a Places of Public Entertainment Licence is not required.

#### 5.4 The following Government departments have no comments on the application:

- (a) Chief Highway Engineer/Kowloon, Highways Department;
- (b) Chief Engineer/Mainland South, Drainage Services Department;
- (c) Chief Engineer/Development (2), Water Supplies Department;
- (d) Commissioner for Transport;
- (e) Commissioner of Police;
- (f) District Officer (Wong Tai Sin), Home Affairs Department; and
- (g) Director of Leisure and Cultural Services.

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



- 6.1 On 22.3.2019, the review application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 12.4.2019, no public comment was received.
- 6.2 The public comment received at the section 16 application is set out in paragraph 10 of **Annex A**.

## **7. Planning Considerations and Assessments**

- 7.1 The application is for 'Place of Recreation, Sports or Culture (Sports Training Ground)' use at the Premises, which falls within the "OU(B)" zone, for a temporary period of 3 years. The MPC rejected the section 16 application on the ground that the applied use is considered not acceptable in an existing industrial building from fire safety point of view. In the review application, after considering the applicant's written representation to support the review, the concerned Government departments maintained their previous views on the application.
- 7.2 According to the submission in the review application, the applicant introduces the member-only scheme to ensure that the premises would not be opened to public and only be opened for members with prior appointment. All members are required to watch the fire safety video before signing the agreement. However, D of FS considers that the member-only scheme could not reduce the potential fire risks inside the Premises within the subject IB and the proposed use would attract visitors to stay for long periods of time in the subject IB exposing them to fire risk associated with industrial activities which they were neither aware of nor prepared to face.
- 7.3 Moreover, the applicant also points out that those units located at the same ground floor are mainly water pumps repair workshops and have no dangerous goods or chemicals to be stored at the units according to the applicant's knowledge. Thus, they believed that the Premises will not result in higher potential risks in terms of fire and hazards associated with fumes and explosives. However, water pumps repair workshops is a type of industrial uses, and according to the occupation permit of the subject IB, all five workshops at ground floor level could be used as industrial uses. The co-existence of industrial and non-industrial uses on G/F of the subject IB, is considered unacceptable to D of FS. As mentioned in paragraph 5.2.3(b) above, it is evidenced from statistics that the size of developed fires and magnitude of accidents in IBs were usually large and severe due to bulk storage and use of combustible materials, hazardous chemicals or a mix of them with various dangerous goods associated with industrial undertakings.
- 7.4 The applicant also claims that the Premises is completely separated from other industrial uses by common passage with sprinkler system at the same floor and by a car park buffer floor above. However, D of FS considered that the common passage could not provide effective buffer between the Premises and the industrial uses since industrial operations could be found within the same floor. Two similar applications (Nos. A/K14/722 and 734) for sports training ground at an industrial building (at 1/F and 2/F) in "OU(B)" zone in Kwun

Tong Business Area were rejected by the Committee on 9.10.2015 and the Board on 19.5.2017 respectively, on the ground that the use was not acceptable in an industrial building from fire safety point of view. The applicant claimed that approval of the application will not set an undesirable precedent as the Premises is totally separated from the other industrial portion; it is well served by ample firefighting facilities; and being on the G/F, it is different from the similar rejected cases that involved premises on 1/F and 2/F. However, the co-existence of industrial and non-industrial uses on the same floor of the subject IB, is considered unacceptable to D of FS.

- 7.5 Despite the abovementioned fire safety/administrative measures, proposed means of escape leading to public road, and the temporary nature of the applied use, D of FS maintains his stance of objecting to the application from the fire safety point of view upon further consultation at the section 17 review stage, due to much higher potential risk of fire and accident in the IBs, particularly when the applied use would attract large number of visitors to stay for long period of time in the Premises which co-exists with the other industrial uses in the same floor. Detailed concerns from D of FS are in paragraphs 5.2.1-5.2.3 above. As such, the applied use at the Premises does not comply with the TPB Guidelines for Development within the “OU(B)” zone in that it would induce adverse fire safety impact and D of FS is not satisfied on the risk likely to arise or increase from the applied use.
- 7.6 As there is no major change in planning circumstances since the rejection of the section 16 application and that D of FS maintains his stance on objecting to the application, the previous planning assessments as stated in paragraph 11 of **Annex A** are still valid and there is no strong justification to warrant a departure from the MPC’s decision of rejecting the application.
- 7.7 No public comment was received on the review application.

## 8. **Planning Department’s Views**

- 8.1 Based on the assessment made in paragraph 7, and given that there is no change in the planning circumstances since the consideration of the section 16 application by the MPC, the Planning Department maintains its previous view of not supporting the application for the following reason:
- the sports training ground use at the application premises is considered not acceptable from fire safety point of view.
- 8.2 Alternatively, should the Board decide to approve the application, given the fire safety concerns, it is suggested that a temporary approval of three years until 14.6.2022, as proposed by the applicant, should be granted to closely monitor the development. The following conditions of approval and advisory clauses are suggested for Members’ reference:

### *Approval conditions*

- (a) the submission and implementation of the proposal for fire safety

measures, including the provision of a means of escape completely separated from the industrial portion of the subject industrial building and fire service installations and equipment at the application premises 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 14.12.2019; and

- (b) if the above planning condition 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 **Annex E**.

**9. Decision Sought**

- 9.1 The Board is invited to consider the application for a review of the MPC's decision and decide whether to accede to the application.
- 9.2 Should the Board decide to reject the review application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 9.3 Alternatively, should the Board decide to approve the review application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission.

**10. Attachments**

<b>Annex A</b>	MPC Paper No. A/K11/232
<b>Annex B</b>	Extract of minutes of the MPC meeting held on 1.2.2019
<b>Annex C</b>	Secretary of the Board's letter dated 22.2.2019
<b>Annex D</b>	Applicant's letter dated 14.3.2019 applying for a review of MPC's decision
<b>Annex E</b>	Recommended Advisory Clauses
<b>Drawing R-1</b>	Floor plan of the G/F of the subject building
<b>Drawings R-2 to R-3</b>	Proposed layout plans of the Premises
<b>Drawing R-4</b>	Section of the subject building
<b>Drawing R-5</b>	Pedestrian access plan
<b>Plan R-1</b>	Location Plan
<b>Plan R-2</b>	Site Plan
<b>Plans R-3 to R-5</b>	Site Photos