

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K10/271

- Applicant** : Tsi Mai Company Limited represented by CBRE Advisory Hong Kong Limited
- Premises** : G/F, Brill Plaza, 84 To Kwa Wan Road, Ma Tau Kok, Kowloon
- Floor Area** : About 367.956m²
- Lease (Lot)** : (a) Kowloon Inland Lot (KIL) No. 6053 – 75 years commencing from 28.9.1949 and renewable for 75 years
(b) Restricted for industrial or godown purposes or both, excluding offensive trade
- Plan** : Approved Ma Tau Kok Outline Zoning Plan (OZP) No. S/K10/30
- Zoning** : “Residential (Group E)” (“R(E)”) (Restricted to maximum plot ratio (PR) of 7.5 for a domestic building or 9.0 for a building that is partly domestic and partly non-domestic in which domestic PR shall not exceed 7.5)
- Application** : Proposed Shop and Services

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for proposed ‘Shop and Services’ use. The Premises is located on G/F of Brill Plaza fronting To Kwa Wan Road (**Plan A-2**). According to Schedule II of the Notes for the “R(E)” zone applicable to existing industrial or industrial-office building, ‘Shop and Services’ use on G/F (except Motor-vehicle Showroom and Service Trades) is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Premises, which was used as a mail delivery office¹, is currently vacant.
- 1.2 According to the applicant, there are 26 car parking spaces and 10 loading/unloading (L/UL) bays in the subject building that are shared for use by the building’s occupants, including the occupiers of the Premises, in the same manner as the previous mail delivery office.
- 1.3 The applicant indicates that the potential shop and services include banks and other

¹ Kowloon City Delivery Office located at G/F and 1/F of the Premises was relocated on 20.10.2023.

retail businesses such as furniture shops. The ground floor plan and a plan showing the internal floor area of the Premises submitted by the applicant are shown on **Drawings A-1 and A-2**.

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application Form received on 8.12.2023 **(Appendix I)**
- (b) Supplementary Planning Statement (SPS) and a Replacement Page of the SPS received on 11.12.2023 **(Appendix Ia)**
- (c) Further Information (FI) received on 8.1.2024[#] **(Appendix Ib)**
- (d) FI received on 12.1.2024^{*} **(Appendix Ic)**
- (e) FI received on 8.2.2024[#] **(Appendix Id)**
- (f) FI received on 17.6.2024^{*} **(Appendix Ie)**

accepted and exempted from the publication and recounting requirements

**accepted but not exempted from the publication and recounting requirements*

1.5 On 1.3.2024 and 10.5.2024, the Metro Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for two months each as requested by the Applicant.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application as set out in the SPS and FI at **Appendices Ia to Ie** are summarized as follows:

- (a) The proposed use is to provide general business and commercial uses that are compatible with the surrounding uses and other ground floor uses along To Kwa Wan Road. This is in line with the planning intention of “R(E)” zone which is to phase out existing industrial uses.
- (b) The Premises is situated at the centre of To Kwa Wan industrial area encompassed by industrial and office buildings. The proposed use contributes to coping with the imminent demand for retail space for the occupants of the development, and its neighbourhood as well as the local community for their daily needs.
- (c) The proposed use is supported by similar approved applications in the vicinity listed by the applicant in **Appendix Ia**.
- (d) There will not be any increase in the working or living population as a result of the proposed use when compared with the previous mail delivery office; therefore, no risk assessment is required.
- (e) Customers from the surrounding area are anticipated to visit the Premises on foot. It is anticipated that the proposed use will not generate significant adverse impacts to the

surrounding area on traffic, environmental and infrastructure aspects.

- (f) A traffic review is conducted to demonstrate that retail businesses will generate fewer vehicular trips generation as compared with the previous use (i.e. mail delivery office). Also, as the existing car parking spaces and loading/unloading bays in the subject building are not fully utilized currently, there are sufficient parking spaces for any additional vehicle trips generated by the applied use. The applicant further clarifies that the potential tenants are expected to serve the local community needs and are unlikely to attract tourist groups, supported by a letter of undertaking stating that the Premises will not be leased to the tenants/operators who serve tourist groups or customers arriving by tour buses.

3. **Compliance with the “Owner’s Consent/Notification” Requirements**

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Previous Applications**

The Premises forms part of two previous planning applications involving redevelopment of the building. One applied for redevelopment into ‘Retail/Office’ uses (No. A/K10/144) and the other for ‘Flat’ and ‘Shop and Services’ uses (No. A/K10/186) (**Plan A-1 and Appendix II**). Both applications were approved with conditions by the Metro Planning Committee (the Committee) in 1994 and 2000 respectively considering that the proposed development would encourage the phasing out of industrial uses in the area and/or improve environmental conditions of the surrounding areas. Both proposed uses had not been implemented and the planning permission lapsed.

5. **Similar Applications**

There are two similar applications (Nos. A/K10/214 and A/K10/217) for conversion of the same premises (i.e. G/F of an industrial building) into proposed shop and services uses within the “R(E)” zone in the Ma Tau Kok area (**Plan A-1**). Both applications were approved with conditions by the Committee respectively in 2006 and 2007 mainly on the grounds that the use was small in scale, considered not incompatible with other uses in the same building and the surrounding developments, and was not expected to generate adverse impact on the surrounding areas. Details of these applications are at **Appendix II**.

6. **The Premises and Its Surrounding Areas** (Plans A-1 to A-2 and Site Photos on Plans A-3 to A-4)

6.1 The Premises:

- (a) has direct entrance from To Kwa Wan Road; and
- (b) is currently vacant.

6.2 The subject building is:

- (a) a 12-storey industrial building above one storey of basement. The Occupation Permit (OP) was issued in 1983;
- (b) currently occupied by the following uses; and

Floor	Current Uses
B/F	Car park [#]
G/F	The Premises , car park, L/UL bays
1/F to 11/F	Offices, sports training centre*, warehouse, locked and vacant premises

[#]According to the OP, B/F is permitted for godowns for non-domestic use.

*Without planning permission

- (c) within the 300m consultation zone of Ma Tau Kok Gas Works (MTKGW) to its north, which is potentially hazardous installation.

6.3 The surrounding areas have the following characteristics:

- (a) predominately industrial developments (most of them with shops on G/F) in the same “R(E)” zone, and To Kwa Wan Recreation Ground is to its northwest (**Plan A-2**);
- (b) well served by various modes of public transport including buses, public light buses and taxis. To Kwa Wan MTR station is located about 400m to the southwest of the Premises (**Plan A-1**); and
- (c) on the other side of To Kwa Wan Road to its east and Sheung Heung Road to its south are established residential developments including Wyler Gardens zoned “Residential (Group A)” (“R(A)”).

7. **Planning Intention**

The “R(E)” zone is intended primarily for phasing out of existing industrial uses through redevelopment (or conversion) for residential use on application to the Board. Whilst existing industrial uses will be tolerated, new industrial developments are not permitted in order to avoid perpetuation of industrial/residential interface problem.

8. **Comments from Relevant Government Bureau/Departments**

8.1 The following Government bureau/departments have been consulted and their views on the application are summarized as follows:

Land Administration

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

- (a) no objection to the application;
- (b) the Premises falls within KIL 6053 and the Lot is restricted for industrial or godown purposes or both excluding offensive trade under the Public Health and Municipal Services Ordinance or any enactment amending the same or substituted therefor. The Lot is also subject to the design, disposition and height restriction; and
- (c) the proposed shop and services use at the Premises does not comply with the lease conditions. If the above application is approved by the Committee, the owner of the Premises has to apply to LandsD for a lease modification or waiver for the proposed use. The applicant should also note his comments at **Appendix IV**.

Fire Safety

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

- (a) no specific comment subject to water supplies for firefighting and fire service installations being provided to the satisfaction of the D of FS;
- (b) the subject Premises is protected with sprinklers systems; and
- (c) detailed fire services requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

He has no objection to the application subject to the comments at **Appendix IV**.

Traffic

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

He has no adverse comment on the application subject to the comments at **Appendix IV**.

8.1.5 Comments of the Commissioner of Police (C of P):

If road works or road closure for construction is subsequently required, a set of temporary traffic arrangement (TTA) plans should be submitted for further assessment.

Gas Safety

8.1.6 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) no adverse comment on this application as the applicant confirmed that there will not be an increase in the number of persons living or working due to the proposed change of use; and
- (b) in the interest of gas safety, the number of working personnel at the site should be minimized as far as reasonably practicable.

8.2 The following Government departments have no comment to the application:

- (a) Project Manager (East), Civil Engineering and Development Department (PM(E), CEDD);
- (b) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (c) Director of Environmental Protection (DEP);
- (d) Chief Highway Engineer/Kowloon, Highways Department (CHE/K, HyD);
- (e) Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD); and
- (f) District Officer (Kowloon City), Home Affairs Department (DO(KC), HAD).

9. Public Comments Received During Statutory Publication Period

During the statutory public inspection periods, three comments objecting to the application were received. One was submitted by an individual and another two were submitted by a representative from the management office of Wei Chien Court, Wyler Gardens. Their main concerns are related to the potential increase in pedestrian and traffic flow and limited parking spaces for retailers and shoppers, resulting in overcrowding on the pedestrian road. They expressed worry about the adverse impacts from the unclear type of retail business including implications on public order and demanded more details regarding the specific business. They specifically objected to bars or other uses that serve tourists.

10. Planning Considerations and Assessments

- 10.1 The application is for proposed 'Shop and Services' use at the Premises within an existing industrial building zoned "R(E)". While the planning intention of the "R(E)" zone is primarily for phasing out of existing industrial uses through redevelopment (or conversion) for residential use, the proposed uses in existing industrial building may be permitted upon application prior to redevelopment.
- 10.2 The Premises is located in an area undergoing transformation with planned and potential redevelopment proposals for flat use in the "R(A)" and "R(E)" zones. Shops are commonly found on G/F of the existing buildings in the area. The proposed use is considered generally in line with the planning intention of the "R(E)" zone pending wholesale redevelopment and not incompatible with the surrounding uses.

Technical Assessment

- 10.3 A traffic review is conducted by the applicant. It demonstrates the reduction of traffic impact generated from the proposed use as compared with the previous mail delivery office and the adequacy of the internal transport facilities (i.e. parking and L/UL spaces) within the existing building for the proposed use. Having examined the submission of

traffic review and parking spaces arrangement and noting that the proposed use is intended for local community, C for T has no adverse comment on the application. Other relevant departments including DEMS and D of FS have no adverse comments on the application from gas safety and fire safety aspects.

Similar Applications

- 10.4 Two similar applications involving proposed shop and services use on G/F of an industrial building were approved mainly on the grounds that the use was considered not incompatible with other uses in the same building and the surrounding developments, and was not expected to generate adverse impact on the surrounding areas. Approval of the application is not inconsistent with the previous decisions of the Committee on similar applications.

Public Comments

- 10.5 The objecting public comments mainly raised concern on the adverse traffic impact and public order generated by the applied use. It should be noted that 'bar' being 'Eating Place' use is not the subject of the application and is not relevant to the application. The assessment in paragraphs 10.1 to 10.4 above are relevant.

11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments mentioned in para. 9 above, the Planning Department has no objection to the application.
- 11.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 16.8.2028, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission and implementation of water supplies for firefighting and fire service installations for the application premises 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 before the operation of the approved use, 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**.

- 11.3 There is no strong reason to recommend rejection of the application.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or to refuse to grant permission.
- 12.2 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.
- 12.3 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.

13. Attachments

Appendix I	Application Form received on 8.12.2023
Appendix Ia	Supplementary Planning Statement (SPS) and a Replacement Page of the SPS received on 11.12.2023
Appendix Ib	FI received on 8.1.2024
Appendix Ic	FI received on 12.1.2024
Appendix Id	FI received on 8.2.2024
Appendix Ie	FI received on 17.6.2024
Appendix II	Previous and Similar Applications
Appendix III	Public Comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Plan showing Internal Floor Area
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3 to 4	Site Photos

**PLANNING DEPARTMENT
AUGUST 2024**