

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K11/245

- Applicant** : Jing Wah Garments Manufacturing Company Limited represented by Raymond Chan Surveyors Limited
- Premises** : Portion of G/F, Jing Wah Building (aka Mini Cube), 10 Sam Chuk Street, San Po Kong, Kowloon
- Floor Area** : about 230m²
- Lease** : (a) New Kowloon Inland Lot (NKIL) No. 4437; and
(b) Restricted for industrial and/or godown purposes excluding offensive trades
- Plan** : Approved Tsz Wan Shan, Diamond Hill and San Po Kong Outline Zoning Plan (OZP) No. S/K11/31
- Zoning** : “Other Specified Uses” annotated “Business” (“OU(B)”) [Restricted to a maximum plot ratio (PR) of 12 and a maximum building height (BH) of 120 metres above Principal Datum (mPD), or the PR and the 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) for the proposed ‘Shop and Services’ use. The Premises occupies portion of the G/F (**Drawings A-1 to A-2, Plans A-2 to A-3**) of Jing Wah Building which is an existing 9-storey industrial building (IB) (hereafter refers as the subject IB) at the junction of Sam Chuk Street and Tai Yau Street in San Po Kong. The subject IB falls within an area zoned “OU(B)” on the approved Tsz Wan Shan, Diamond Hill and San Po Kong OZP No. S/K11/31 (**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)’ use on G/F of an IB is a Column 2 use, which requires planning permission from the Town Planning Board (the Board)¹.
- 1.2 According to the applicant, the Premises is located on the G/F of the subject IB with two entrances directly fronting Sam Chuk Street and Tai Yau Street. It has a floor

¹ Schedule II of the Notes of the OZP for the “OU(B)” zone also stipulate that ‘Shop and Services’ use is a Column 1 use for industrial or I-O building if it is located in the purpose-designed non-industrial portion on the lower floors (except basements and floors containing wholly or mainly car parking, loading/unloading bays and/or plant room) of an existing building, provided that the use is separated from the industrial uses located above by a buffer floor or floors and no industrial uses are located within the non-industrial portion. However, such provision is not applicable to the subject IB as there is no buffer floor.

area of about 230 m² and is currently vacant. A layout plan showing the Premises submitted by the applicant are at **Drawing A-2**.

- 1.3 According to the proposal, the Premises will be separated from the existing industrial portion (workshop) on the G/F². One loading/unloading (L/UL) space at G/F³ of the subject IB (**Drawing A-1**) will be provided to serve the proposed use, which will temporarily occupy two existing private car parking spaces from 7 a.m. to 9 a.m. daily and by visit-by-appointment arrangement⁴.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form received on 8.2.2024 (Appendix I)
 - (b) Supporting planning statement received on 8.2.2024 (Appendix Ia)
 - (c) Further information (FI) received on 24.4.2024^(#) (Appendix Ib)
 - (d) FI received on 6.6.2024^(#) (Appendix Ic)
 - (e) FI received on 25.6.2024^(#) (Appendix Id)

Remarks:

^(#) *accepted and exempted from publication and recounting requirement*

- 1.5 On 5.4.2024 and 24.5.2024, 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 are set out in **Appendices Ia and Ic**. They can be summarised as follows:

- (a) the proposed use is in line with the planning intention of the “OU(B)” zone and supports the transformation and upgrading of the area;
- (b) the proposed use is compatible with the surrounding environment in that there are ‘Shop and Services’ uses found along Tai Yau Street. The proposed use will support the commercial activities, residents and workers in the area;
- (c) the proposed use of 230m² in floor area does not exceed the permissible commercial floor area on the G/F of the subject IB as set out in the Town Planning Board Guidelines for Development within “OU(B)” Zone (TPB PG-No. 22D);
- (d) fire safety measures would be provided, including (1) separation of the Premises from the industrial portion of the subject IB by building materials with acceptable fire resistance period; (2) a new, independent and exclusive means of escape separated from the rest of the subject IB (**Drawing A-2**); and (3) fire services installations which

² To segregate the Premises and the existing workshop, the applicant proposes to construct a block wall and self-closing door with acceptable fire resistance period at the Premises. Besides, independent means of escape and fire services installations will be provided (**Drawing A-2**).

³ There are 11 private car parking spaces at the subject IB, which are owned by the applicant.

⁴ According to the applicant, the estimated trips generated from the delivery of goods shall be a maximum of 4 trips per week and each session for L/UL activity shall not be more than 30 minutes. Arrangement will be managed by the existing property managers/security guards at the subject IB, who are directly employed by the applicant. During construction/renovation stage, the applicant also proposes that the delivery of construction materials shall be limited to Light Goods Vehicles and to be performed at early stage of the proposed use. Each session for L/UL activity shall not be more than 30 minutes.

comply with the requirements of the Fire Services Department;

- (e) to address Transport Department's comments, the applicant proposes L/UL arrangement including the provision of a L/UL space and goods delivery route inside the subject IB, management measures, and relevant modification works on G/F outside the Premises to serve the proposed use (**Drawing A-1**);
- (f) the applicant clarifies that there shall be no food catering services at the subject premises; and
- (g) the proposed use is of small scale, well served by pedestrian network and in close proximity to Diamond Hill MTR station, therefore it is not envisaged that the proposed use would generate excessive traffic affecting 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 TPB PG-No. 22D promulgated in September 2007 is 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 G/F of an existing industrial/I-O building with and without sprinkler systems should 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, 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 L/UL 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**

There is no previous application in respect of the Premises.

6. **Similar Applications**

6.1 There are a total of 44 similar applications for ‘Shop and Services’ use on G/F of industrial or I-O buildings under the “OU(B)” zone in San Po Kong Business Area (SPKBA). 43 of them were approved with conditions by the Committee of the Board between 2004 and 2022 mainly on the considerations that the proposed uses (i) are generally in line with the planning intention of “OU(B)” zone; (ii) compatible with the changing land use character of the SPKBA; (iii) comply with TPB PG-No. 22D that would not induce adverse fire safety, traffic, environmental and infrastructural impacts to the developments within the same building and the adjacent area; and (iv) have no adverse comments/objections from relevant Government departments. One was rejected in 2013 mainly for the reason that the application was not acceptable from fire safety viewpoint. None of the similar approved applications are situated within the subject IB.

7. **The Premises and its Surrounding Areas** (Plans A-1 to A-3)

7.1 The Premises:

- (a) occupies portion of G/F of the subject IB and is currently vacant; and
- (b) has two entrances fronting Sam Chuk Street and Tai Yau Street. A lift lobby providing separate access to other floors is located at the remaining portion of G/F of the subject IB.

7.2 The subject building:

- (a) is a 9-storey IB with car parking spaces on G/F. Occupation permit was issued by the Buildings Authority in 1965;
- (b) the building is not equipped with sprinkler system; and
- (c) has the following existing uses:

Floor	Main Uses
G/F	The Premises , carpark, vacant workshop space, lift lobby, plant room
1/F	Training centre ^[@]
2/F	Offices
3/F – 6/F (4/F omitted)	Storage
7/F – 8/F	Vacant
9/F	Offices

[@] use not allowed unless in the purpose-designed non-industrial portion on the lower floors (except basements and floors containing wholly or mainly car parking, L/UL bays and/or plant room) of an existing building, provided that the uses are separated from the industrial uses located above by a buffer floor or floors and no industrial uses are located within the non-industrial portion.

7.3 The surrounding areas have the following characteristics (**Plans A-1 and A-2**):

- (a) located in the established SPKBA, which is occupied mainly by IBs and I-O buildings with some 'Shop and Services' uses on G/F, such as retail shops, fast food shops, banks, money exchange shops and canteens; and
- (b) is well served by various modes of public transport. The MTR Diamond Hill Station is about 550m to the northeast.

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 summarized as follows:

Land Administration

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

- (a) the Premises falls within Lot NKIL 4437 (the Lot), which is held under the Condition of Sale No. 7179 dated 25.6.1962 as varied or modified by a modification letter dated 5.7.1965 (collectively "the C/S"). The lease term has been extended up to 30.6.2046. The Lot is restricted for industrial and/or godown purposes excluding offensive trades; The proposed use will contravene the lease condition under which the Lot is held;
- (b) pursuant to Special Condition No. (8) of the C/S, space shall be provided for the parking, L/UL of motor vehicles at the rate of not less than 1 vehicle for each 10,000 or part of 10,000 sq.ft. of floor area but in any event not less than 1 vehicle for each 5,000 or part of 5,000 sq.ft. of site area;
- (c) having considered the justifications set out in the FI, she has no further comments on the proposed temporary L/UL arrangement and the application; and
- (d) if the planning application is approved by the Board, the owner of the premises shall apply to LandsD for a lease modification or temporary waiver to implement the proposal. However, there is no guarantee that the lease modification or temporary waiver will be approved. Such application, if received by LandsD, will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event any such application is approved, it will be subject to such terms and conditions, including, among others, the payment of

premium/waiver fee and administrative fee as imposed by LandsD; Approval by the Board shall not prejudice the Government's right to take enforcement action against any breach of lease conditions identified at the Premises.

Building Matters

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

- (a) all building works/change of use are subject to compliance with the Buildings Ordinance (BO);
- (b) before any new building works are carried out, prior approval and consent from the Building Authority under BO should be obtained, unless the works fall within the scope of designated minor works that can be carried out under the simplified requirements specified in the Building (Minor Works) Regulation or such works are exempted works;
- (c) the applicant should be advised to appoint an Authorised Person to ensure that any building works/change of use are implemented in compliance with BO, including (but not limited to) the following:
 - (i) adequate means of escape should be provided in accordance with Building (Planning) Regulation ((B(P)R) 41(1)) and the Code of Practice for Fire Safety in Buildings 2011 (the FS Code);
 - (ii) the subject premises should be separated from the remaining portion of the building by fire barriers of adequate fire resistance rating pursuant to Building (Construction) Regulation 35 and the FS Code;
 - (iii) adequate provision of sanitary fitments should be provided to the subject premises in accordance with the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations;
 - (iv) adequate provision of barrier free access to the subject premises should be provided in accordance with B(P)R 72 and Design Manual: Barrier Free Access 2008; and
- (d) other detailed comments are at **Appendix II**;

Traffic Matters

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

- (a) to ensure the proposed use would not induce roadside L/UL and goods delivery on public road, L/UL arrangement including a goods delivery route within the subject IB should be provided;
- (b) she has no adverse comments on the application and the proposed L/UL arrangement (paragraph 1.3 refers) from the traffic engineering

perspective; and

- (c) other detailed comments are at **Appendix II**.

Fire Safety

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

- (a) no objection in-principle to the application subject to:
 - (i) fire service installations and equipment being provided to the satisfaction of his department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans;
 - (ii) means of escape completely separated from the industrial portion is available for the subject unit;
- (b) the building is not fully protected with a sprinkler system so that maximum permissible aggregated commercial floor area on G/F is 230m² in accordance with TPB PG-No. 22D. The proposed use under the application should be counted up to the aggregated commercial floor area; and
- (c) other detailed comments are at **Appendix II**.

Environment

9.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) while the Environmental Protection Department (EPD) is the authority for public sewerage infrastructure planning, it is noted the public comment concerned on the potential sewerage impact of the proposed use to the building's own sewerage system instead of the public sewerage system. Hence the concerned issue falls outside his ambit; and
- (b) in general, the public sewerage system could be able to cater for the sewerage impact arising from the proposed use.

Food and Environment Hygiene Aspect

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

- (a) proper licence / permit issued by this Department is required if there is any food business /catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public. Under the Food Business Regulation, Cap. 132X, a factory canteen licence is required for the operation of the food businesses in the industrial building as listed in the Regulation; and
- (b) the operation of the business should not cause any environmental nuisances and/or hygiene problems at the Premises and its vicinities. The operator of the site is responsible for the removal and disposal of

any trade waste generated from the commercial activities at their expenses.

9.2 The following Government departments have no objection to/no comments on the application:

- (a) Chief Highway Engineer/Kowloon, Highways Department;
- (b) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Commissioner of Police; and
- (e) District Officer (Wong Tai Sin), Home Affairs Department.

10. Public Comments Received During Statutory Publication Period

During the statutory public inspection period, one objecting public comment from the Incorporated Owners of Efficiency House and Jing Wah Building was received, mainly on the grounds that the proposed use may generate excessive sewerage, and extra cost for maintenance, insurance and compensation (**Appendix III**).

11. Planning Considerations and Assessments

- 11.1 The application seeks planning permission for ‘Shop and Services’ use at the Premises within an existing IB under the “OU(B)” zone in SPKBA. The planning intention of “OU(B)” zone is 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 induce adverse fire safety and environmental impacts. The proposed use is considered generally in line with the planning intention.
- 11.2 The SPKBA is being transformed into commercial/business use with similar applications for ‘Shop and Services’ use approved on G/F units of other industrial and I-O buildings in the vicinity of the Premises. The proposed use is compatible with the changing land use character of the area.
- 11.3 The proposed use at the Premises complies with TPB PG-No. 22D in that it would not induce adverse fire safety, traffic and environmental impacts on the development within the subject IB and the adjacent areas. As regards the proposed L/UL arrangement (paragraph 1.3 refers), C for T has no adverse comments. Relevant Government departments consulted including DLO/KE of LandsD, D of FS, CBS/K of BD, C for T, CE/C of WSD and CE/MS of DSD have no adverse comment on/no objection to the application.
- 11.4 As advised by D of FS, the subject building is not equipped with sprinkler system, which is subject to a maximum permissible limit of 230m² for aggregated commercial floor area on G/F in accordance with TPB PG-No. 22D. If the application is approved, the aggregated commercial floor area approved by the Committee on the G/F of the subject IB will be about 230m², which is within the maximum permissible limit as set out in the TPB PG-No. 22D. Direct access is provided for the Premises with street frontage at Sam Chuk Street and Tai Yau Street. D of FS has no in-principle objection to the application subject to imposing relevant approval condition as set out in paragraph 12.2.

- 11.5 A total of 43 applications for ‘Shop and Services’ use on the G/F of industrial or I-O buildings under the “OU(B)” zone in SPKBA were approved with conditions by the Committee of the Board. Approval of this application is consistent with the previous decision of the Committee.
- 11.6 Regarding the public comment on potential sewerage impact on the subject IB, the applicant clarified that there shall be no food catering services at the subject premises and EPD advised that the public sewerage system could be able to cater for the sewerage impact arising from the proposed use in general.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 16.7.2026, 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 a proposal on the fire safety measures and means of escape separated from the industrial portion before operation of the approved use to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (b) if the above planning condition (a) 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**.

- 12.3 There is no strong 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 to 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 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 received on 8.2.2024
Appendix Ia	SPS received on 8.2.2024
Appendix Ib	FI received on 24.4.2024
Appendix Ic	FI received on 6.6.2024
Appendix Id	FI received on 25.6.2024
Appendix II	Detailed Departmental Comments
Appendix III	Public Comment
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Proposed Goods Delivery Route Plan
Drawing A-2	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Site Photos

PLANNING DEPARTMENT
JULY 2024