

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K13/330

- Applicant** : Bright Spark Ventures Limited represented by RHL Surveyors Limited
- Premises** : Portion of Unit 6, G/F, Kowloon Bay Industrial Centre, 15 Wang Hoi Road, Kowloon Bay, Kowloon
- Floor Area** : About 29m²
- Lease** : (a) New Kowloon Inland Lot (N.K.I.L.) 5833
(b) Restricted for industrial and/or godown purposes (excluding any offensive trades)
- Plan** : Approved Ngau Tau Kok and Kowloon Bay OZP No. S/K13/32
- Zoning** : “Other Specified Uses” annotated “Business” (“OU(B)”) [Restricted to a maximum plot ratio (PR) of 12.0 and a maximum building height (BH) of 120 meters above Principal Datum (mPD) or the PR and 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 proposed shop and services use. The Premises occupies a portion of Unit 6 on the ground floor (G/F) of an existing industrial building (IB) (i.e. Kowloon Bay Industrial Centre), which falls within an area zoned “OU(B)” on the approved Ngau Tau Kok and Kowloon Bay OZP No. S/K13/32 (**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 According to the applicant, the Premises, with a total floor area of about 29m², is located at Unit 6 on G/F of the subject building with entrance directly fronting Wang Hoi Road (**Drawing A-2** and **Plan A-2**). The Premises is currently vacant and under renovation (**Plans A-4** and **A-5**). Plans showing the layout of the G/F of the subject IB and the Premises are at **Drawings A-1**

and A-2.

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

(a) Application Form received on 15.3.2024 (Appendix Ia)

(b) Further Information (FI) received on 12.4.2024[#] (Appendix Ib)

(c) FI received on 25.4.2024[#] (Appendix Ic)

Remarks:

accepted and exempted from publication and recounting requirement

2. **Justifications from the Applicant**

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

- (a) the proposed ‘Shop and Services’ use is in line with the planning intention of “OU(B)” zone;
- (b) there are various commercial uses (such as property agencies, metal shops, fast food shops) at G/F of other IBs in the area. The proposed use is considered compatible with the uses in the area;
- (c) planning approvals have been given to other premises at the G/F of the subject IB for ‘Shop and Services’ uses. G/F of the subject IB is suitable for commercial purposes;
- (d) loading/unloading (L/UL) activities will take place at the existing L/UL bay at the basement floor of the subject IB. The goods will then reach G/F through cargo lift, and reach the Premises via corridors in the subject IB and pedestrian path at Wang Hoi Road;
- (e) limited number of light goods vehicles are expected and L/UL activities will be carried out during the non-peak hours. The proposed use will mainly serve the shoppers in the vicinity. The increase in traffic is considered minimal; and
- (f) a brick wall will be built to separate the Premises and the remaining portion of Unit 6. Each portion will have individual entrance/exit and be leased out to different tenants. The proposed “Shop and Services” use shall only be restricted and confined to the Premises.

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

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

TPB PG-No. 22D on Development within “OU(B)” Zone 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 (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 G/F of an existing industrial/I-O building with and without sprinkler systems should as a general principle 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 areas 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 Application

Part of the Premises is subject to a previous planning application (No. A/K13/180) (**Plan A-3**) for ‘Shop and Services (Retail Shop – Metalware)’ with floor area of about 14.53m² submitted by a different applicant. The application was approved with condition by the Committee on 16.7.2004. The only approval condition in relation to the fire services installations (FSIs) has been satisfactorily complied with. The Premises is now vacant.

6. Similar Applications

6.1 The Committee has so far considered 36 planning applications for various shop

and services uses on the G/F of the subject industrial building (**Plan A-3**). Whilst 30 of these applications were approved with condition(s) by the Committee, 6 were rejected by the Committee for fire safety reasons. The details of the similar applications are shown in the table below.

| Approved applications counted towards aggregate commercial floor area on G/F of an IB (with sprinkler systems) | | | | |
|---|------------------------|--|-------------------------------|-------------------------|
| Unit | Application No. | Proposed Uses | Floor Area (about) | Date of Decision |
| 1B1 | A/K13/183 | Shop and Services (Real Estate Agency) | 30.165m ² | 16.7.2004 |
| 1B2 | A/K13/182 | Wholesale trade cum Shop and Services (Stationery) | 57.86m ² | 16.7.2004 |
| 1C | A/K13/311 | Shop and Services | 15.85m ² | 16.11.2018 |
| 4A | A/K13/267 | Shop and Services | 37.5m ² | 15.4.2011 |
| 4B | A/K13/268 | Shop and Services | 25.9m ² | 15.4.2011 |
| 5B (Portion) | A/K13/288 | Shop and Services | 45.9m ² | 7.2.2014 |
| 8A1, 8A2, 8A3, 8A4, 8A5A, 8A5B and 8A6 | A/K13/314 | Shop and Services | 80m ² | 1.11.2019 |
| 8B | A/K13/185 | Shop and Services (Real Estate Agency) | 18.85m ² | 16.7.2004 |
| 16 | A/K13/312 | Shop and Services | 59.667m ² | 16.8.2019 |
| 17 | A/K13/191 | Shop and Services (Fast Food cum Retail Shop) | 58.64m ² | 28.1.2005 |
| Total Commercial Floor Area: | | | 430.332m² * | |

* The total commercial floor area has excluded the floor areas in overlapping premises and planning permissions which were revoked, expired or uses not subject to the aggregate commercial floor area (refer to the table below).

| Approved applications <u>NOT</u> counted towards aggregate commercial floor area on G/F of an IB (with sprinkler systems) | | | | | |
|--|------------------------|---|---------------------------|-------------------------|---|
| Unit | Application No. | Proposed Uses | Floor Area (about) | Date of Decision | Remarks |
| 1A | A/K13/184 | Shop and Services (Retail Shop – Metalware) | 95.16m ² | 16.7.2004 | Not Applicable% |
| 1C | A/K13/176 | Shop and Services (Real Estate Agency) | 16.17m ² | 12.3.2004 | Covered by subsequent planning permission |
| | A/K13/303 | Shop and Services | 15.85m ² | 7.4.2017 | Revoked& |
| 2 | A/K13/120 | Bank Use | 275m ² | 16.5.1997 | Not Applicable% |
| | A/K13/206 | Shop and Services (Bank) | 223 m ² | 11.11.2005 | Not Applicable% |
| 2A | A/K13/319 | Shop and Services (Fast Food Shop) | 30.41m ² | 1.9.2020 | Not Applicable% |
| 3 (Portion) | A/K13/216 | Shop and Services (Convenience Store) | 49m ² | 20.10.2006 | Revoked& |

| | | | | | |
|--|-----------|--|----------------------|------------|---|
| | A/K13/236 | Shop and Services | 49m ² | 23.1.2009 | Revoked ^{&} |
| | A/K13/251 | Shop and Services | 48.88m ² | 29.1.2010 | Revoked ^{&} |
| 4 (Portion) | A/K13/179 | Shop and Services (Retail Shop – Electrical Products) | 26.83m ² | 25.6.2004 | Not Applicable [%] |
| 4B | A/K13/193 | Shop and Services (Real Estate Agency/Retail Shop) | 25.9m ² | 18.2.2005 | Covered by subsequent planning permission |
| 5 (before divided into 5A and 5B) | A/K13/192 | Shop and Services (Fast Food cum Retail Shop) | 130.68m ² | 28.1.2005 | Substantially covered by subsequent planning permission |
| 5A (Portion) | A/K13/208 | Temporary Shop and Services for a Period of 3 Years | 24m ² | 25.11.2005 | Expired |
| 5A | A/K13/213 | Temporary Shop and Services (Estate Agent Office) for a Period of 3 Years | 54m ² | 7.4.2006 | Revoked ^{&} |
| | A/K13/218 | Temporary Shop and Services (Estate Agent Office) for a Period of 3 Years | 54m ² | 5.1.2007 | Revoked ^{&} |
| | A/K13/233 | Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years | 54m ² | 20.6.2008 | Revoked ^{&} |
| 5B (Portion) | A/K13/221 | Temporary Shop and Services (Retail Uses) for a Period of 5 Years | 45.9m ² | 27.7.2007 | Expired |
| 8A1, 8A2, 8A3, 8A4, 8A5A, 8A5B and 8A6 | A/K13/228 | Shop and Services (Retail Shop and Real Estate Agency) | 80m ² | 2.11.2007 | Covered by subsequent planning permission |
| | A/K13/194 | Temporary Shop and Services (Retail Shop and Real Estate Agency) for a Period of 3 Years | 80m ² | 18.3.2005 | Expired |
| 8B | A/K13/324 | Shop and Services | 11.08m ² | 23.9.2022 | Revoked ^{&} |

[%] According to para. 4.6 of the TPB PG-No. 22D, the limits on commercial floor area under the guidelines do not apply to a list of specified 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.

[&] The planning permissions were revoked due to non-compliance with time-limited approval condition(s).

| Rejected Applications | | | |
|-----------------------|-----------------|------------------------------------|------------------------|
| Unit | Application No. | Proposed Uses | Date of Decision |
| 2 | A/K13/186 | Shop and Services (Fast Food Shop) | 16.7.2004 [#] |
| | A/K13/227 | Shop and Services (Retail Shop) | 28.9.2007 [@] |
| 2 (Portion) | A/K13/229 | Shop and Services | 9.5.2008 [@] |

| | | | |
|-------------|-----------|---------------------------------------|-------------------------|
| 3 (Portion) | A/K13/207 | Shop and Services (Convenience Store) | 25.11.2005 [@] |
| | A/K13/215 | Shop and Services (Convenience Store) | 28.4.2006 [@] |
| 17 | A/K13/189 | Shop and Services (Fast Food Shop) | 15.10.2004 [#] |

[#] Rejected reasons being that the use is considered not acceptable from fire safety point of view; and that the approval would set an undesirable precedent for similar applications in the industrial buildings.

[@] Rejected reason being that the application is not acceptable from fire safety point of view.

6.2 According to TPB PG-No. 22D, the ‘Shop and Services’ use under application is subject to the limit on aggregate commercial floor area. Should the Committee approve this application, the total approved commercial floor area on the G/F of the subject building will increase to 459.332m², which is within the maximum permissible limit of 460m² on G/F of an industrial or I-O building with a sprinkler system.

6.3 There are a total of 103 similar applications (including applications mentioned in paragraph 6.1 above) for ‘Shop and Services’ uses on G/F of industrial or I-O buildings under the “OU(B)” zone in Kowloon Bay Business Area (KBBA). Of which, 96 were approved with conditions and the remaining 7 were rejected by the Committee mainly on the grounds that the applications were not acceptable from fire safety point of view.

7. **The Premises and its Surrounding Areas** (Plans A-1 and A-2 and site photos on Plans A-4 and A-5)

7.1 The Premises:

- (a) occupies a portion of Unit 6 on G/F of the subject IB;
- (b) is currently vacant and under renovation; and
- (c) has entrance fronting Wang Hoi Road, and is separated from the entrance to other floors of the building (**Plans A-3 and A-4**).

7.2 The subject IB:

- (a) is a 11-storey IB with one basement floor for carpark use with Occupation Permit issued in 1986;
- (b) is equipped with a sprinkler system; and
- (c) has the following uses:

| Floor | Main Uses |
|-------|---|
| B/F | Carpark |
| G/F | Money Exchange Shop, Real Estate Agency, Shop and Services ^[1] , Eating Places ^[1] , Warehouse, Printing Company, Food Factory, Logistic Facility and Carpark |

| | |
|------------|---|
| 1/F – 10/F | Warehouses/Workshops, Factories, Showrooms, Printing Company, Offices, Art Studios, Food Factory, Shop and Services ^[2] and Private Club/Place of Entertainment ^[2] |
|------------|---|

[1] There is no record of valid planning approval granted for such uses at some units.

[2] Uses not allowed unless in the purpose-designed non-industrial portion on the lower floors of the building and such uses are separated from the industrial or I-O use located above by a buffer floor(s) of non-hazardous occupancy, and no industrial uses are located within that non-industrial portion.

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

- (a) the locality is mainly occupied by industrial or I-O buildings, including Kingsford Industrial Centre, Hoplite Industrial Centre and Shun Fat Industrial Building to its south, west and north respectively;
- (b) to its east across Wang Hoi Road is Telford House, a commercial development with a pedestrian footbridge across Wai Yip Street connecting to Telford Gardens and MTR Kowloon Bay Station; and
- (c) the units on the G/F of the neighbouring industrial buildings are mainly used for shop and services purposes such as banks, money exchange shops, convenient stores, metalware shops, car beauty shops, real estate agencies, renovation companies, printing shops, fast food shops, eating places and canteens.

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 (DLO/KE, LandsD):

- (a) The Premises falls within New Kowloon Inland Lot No. 5833 which is restricted to industrial and/or godown purposes excluding offensive trades. The proposed “shop and services” use is in conflict with the user restrictions under the existing lease.
- (b) Should the planning application be approved by the Board,

the applicant is required to apply to LandsD for a temporary waiver or lease modification to effect the proposal. However, there is no guarantee that the temporary waiver or lease modification would be approved. If the application is eventually approved by LandsD in the capacity as the landlord at its sole discretion, it will be subject to such terms and conditions including, among other, the payment of waiver fee or premium and administration fee as considered appropriate by LandsD.

Fire Safety

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

- (a) No in-principle objection to the application subject to FSIs and equipment being provided to the satisfaction of D of FS. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans.
- (b) The subject IB is protected with a sprinklers system so that the maximum permissible aggregated commercial floor area on G/F is 460m² in accordance with TPB PG-No. 22D. The proposed use should be counted up to the aggregated commercial floor area.

Buildings Matters

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

- (a) No objection in principle to the application subject to all building works/change in use is in compliance with the Buildings Ordinance (BO).
- (b) Before any new building works are carried out, prior approval and consent from the Building Authority (BA) 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) Detailed comments are at **Appendix II**.

Traffic Aspect

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

No in-principle objection to the application from the traffic engineering perspective, provided that all the parking and L/UL activities generating from the operation of the Premises are carried out within the subject IB, and the existing vehicular access of the subject IB is maintained.

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

- (a) Chief Highway Engineer/Kowloon, Highways Department;
- (b) Chief Engineer/Mainland South, Drainage Services Department;
- (c) Chief Engineer/Construction, Water Supplies Department;
- (d) Director of Food and Environmental Hygiene;
- (e) Commissioner of Police; and
- (f) District Officer (Kwun Tong), Home Affairs Department.

10. Public Comment received During the Statutory Publication Period

On 22.3.2024, the application was published for public inspection. During the first three weeks of statutory public inspection period, no public comment was received.

11. Planning Considerations and Assessment

- 11.1 The application is to seek planning permission for ‘Shop and Services’ use at the Premises within an existing IB falling within KBBA. The planning intention of “OU(B) zone is for general business uses to facilitate transformation of the area. It allows flexibility in the use of the existing IBs provided that the proposed use would not induce adverse fire safety and environmental impacts. The proposed use is considered generally in line with the planning intention of the “OU(B)” zone, and is compatible with the changing land use character of the area.
- 11.2 The proposed use at the Premises 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 consulted including D of FS, C for T and CBS/K, BD have no objection to/no adverse comment on the application.
- 11.3 The D of FS confirmed that the subject building is protected by a sprinkler system. Accordingly, the aggregated commercial floor area on the G/F should not exceed 460m² in accordance with TPB PG-No. 22D. If the application is approved, the aggregate commercial floor area on G/F of the subject IB will be 459.332m², which is within the maximum permissible limit. D of FS has no in-principle objection to the application subject to imposing a relevant approval condition.
- 11.4 Part of the Premises is subject to a previously approved application for ‘Shop and Services (Retail Shop – Metalware)’ use, and the Committee has approved a total of 103 similar applications within KBBA. Approval of the current application is in line with the Committee’s previous decisions.
- 11.5 There is no public comment received on the application.

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.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 10.5.2026, 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 before operation of the approved uses 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 operation of the approved uses, 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 at **Appendix II**.

- 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 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 Ia | Application Form received on 15.3.2024 |
| Appendix Ib | FI received on 12.4.2024 |
| Appendix Ic | FI received on 25.4.2024 |
| Appendix II | Recommended Advisory Clauses |
| Drawing A-1 | Ground Floor Plan of the Subject IB |
| Drawing A-2 | Layout Plan of the Premises |
| Plan A-1 | Location Plan |

| | |
|--------------------------|---|
| Plan A-2 | Site Plan |
| Plan A-3 | Plan Showing Similar Applications on the G/F of the Subject IB |
| Plans A-4 and A-5 | Site Photos |

**PLANNING DEPARTMENT
MAY 2024**