

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K14/815

- Applicant** : Nice International Industrial Limited represented by Allgain Land Administrators Company
- Premises** : Workshop No. 3 (Portion), G/F, Hung Tai Industrial Building, 37 – 39 Hung To Road, Kwun Tong, Kowloon
- Floor Area** : About 29.04m²
- Lease** : (a) Kwun Tong Inland Lot (KTIL) Nos. 239 and 253
(b) Restricted to industrial and/or godown purposes excluding offensive trades
- Plan** : Approved Kwun Tong (South) Outline Zoning Plan (OZP) No. S/K14S/24
- Zoning** : “Other Specified Uses” annotated “Business” (“OU(B)”) [Maximum plot ratio (PR) of 12 and maximum building height of 160 metres above Principal Datum or the PR and the height of the existing building(s), 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 Workshop No. 3 on G/F of an existing industrial building (IB), namely Hung Tai Industrial Building (the Building), which falls within an area zoned “OU(B)” on the approved Kwun Tong (South) OZP No. S/K14S/24 (**Plan A-1**). According to the 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 G/F of an IB requires planning permission from the Town Planning Board (the Board).
- 1.2 According to recent site inspection, the Premises is currently occupied by a money exchange shop, for which there is no valid planning permission.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form and supplementary information (**Appendix I**) received on 19.4.2022 and 21.4.2022 respectively
 - (b) Further Information (FI) received on 12.5.2022 (**Appendix Ia**) enclosing a revised layout plan
[FI accepted and exempted from the publication and recounting requirements]

- 1.4 Plans showing the G/F of the Building and the internal layout of the Premises submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are set out in **Appendices I** and **Ia**. They are summarised as follows:

- (a) being zoned “OU(B)” on the Kwun Tong (South) OZP, the proposed ‘Shop and Services’ use is in line with the planning intention of the zone;
- (b) since the Premises has direct frontage facing public street and is completely separated from the industrial portion of the Building, the proposed use will not adversely affect other users of the Building; and
- (c) the proposed use is to meet the market trend.

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 Member’s inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for Development within “OU(B)” Zone (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) 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 loading/unloading (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 is no similar application on G/F of the Building.
- 6.2 There are a total of 218 similar applications for ‘Shop and Services’ use on G/F of industrial or I-O buildings under “OU(B)” zone in the Kwun Tong Business Area (KTBA). 184 of them were approved with conditions and the remaining 34 were rejected by the Metro Planning Committee (the Committee) of the Board, mainly for the reasons that the applications were not acceptable from fire safety viewpoint as the total aggregate commercial floor area on G/F of the industrial or I-O building(s) had exceeded the maximum permissible limit.

7. The Premises and its Surrounding Areas (Plans A-1 to A-3 and photos on Plans A-4 and A-5)

7.1 The Premises:

- (a) occupies a portion of Workshop No. 3 on G/F of an existing IB, namely Hung Tai Industrial Building, and is currently used as money exchange shop (**Plans A-2 to A-5**); and
- (b) has an entrance fronting Hung To Road which is physically separated from the entrance to other floors of the existing IB (**Plans A-3 and A-4**).

7.2 The Building:

- (a) is a 16-storey IB built in 1991 and is equipped with sprinkler system; and
- (b) currently occupied by the following uses:

Floor	Main Uses
B/F	Carpark and L/UL spaces
G/F	The Premises (currently used as money exchange shop), canteen, workshop, motor-vehicle showroom, vehicle repair workshop ^[1] (Plan A-3)
1/F – 14/F	Office (1/F to 14/F), warehouse (1/F, 2/F, 6/F and 11/F), workshop (6/F), service trade (printing workshop) (4/F)

^[1] No record of planning approval granted for vehicle repair workshop.

7.3 The surrounding areas have the following characteristics:

- (a) the neighbouring buildings along Hung To Road are mainly IBs or I-O buildings (**Plan A-2**);
- (b) there are existing commercial/office (c/o) developments in the vicinity including Hung To Centre and 30 Hung To Road at the junction of Hung To Road/How Ming Street and Kai Centre opposite to the Building across Hung To Road, and a c/o development under construction (32 Hung To Road) to the west of the Building (**Plan A-2**);
- (c) the G/F units of the nearby buildings are mainly used as retail shop, eating place and motor-vehicle showroom; and
- (d) MTR Ngau Tau Kok Station is approximately 350m to the northwest across Kwun Tong Road (**Plan A-1**).

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 KTIL No. 239 and 253 (the Lots) which are restricted for industrial purposes and/or godown purposes excluding offensive trades;
- (b) the proposed ‘Shop and Services’ use is in contravention to the lease conditions of the Lots. If the planning application is approved by the Board, the owner of the Premises shall apply to LandsD for a waiver/lease modification to implement the proposal. Upon receipt of the waiver/lease modification application, it will be considered by LandsD acting in the capacity as the landlord but there is no guarantee that the waiver/lease modification application will be approved. In the event the waiver/lease modification application is approved, it will be subject to such terms and conditions including, among others, the payment of waiver fee/premium and administrative fee as may be imposed by LandsD at its sole discretion. 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; and

- (c) upon receipt of the application of waiver/lease modification, if applied by the owner of the Premises, he is required to demonstrate the dimensions and calculation of the floor area in all respects to the satisfaction of LandsD.

Fire Safety

9.1.2 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; and
 - (ii) means of escape separated from the industrial portion is available for the Premises.
- (b) the Building is fully protected by sprinkler system so that the maximum permissible aggregated commercial floor area on G/F is **460m²** in accordance with TPB PG-No. 22D. 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 the “Code of Practice for Fire Safety in Buildings” (FS Code) which is administered by the Building Authority; and
- (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.

Building Matters

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

- (a) no objection in-principle to the application;
- (b) all building works/ change in use should be in compliance with the Buildings Ordinance (BO);
- (c) in accordance with the provisions of the BO, any person intending to carry out building works is required to appoint an Authorized Person (AP) and, where necessary, a registered structural engineer and/or a registered geotechnical engineer to prepare and submit building plans for approval by BD, 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;
- (d) adequate means of escape should be provided in accordance with Building (Planning) Regulation (B(P)R) 41(1) and the FS Code;

- (e) fire barrier with adequate fire resisting construction between the Premises and the remaining portion of the Building should be provided in accordance with Building (Construction) Regulation 35 and the FS Code;
- (f) access and facilities for persons with a disability should be provided in accordance with B(P)R 72 and Design Manual: Barrier Free Access 2008;
- (g) adequate sanitary fitments should be provided to the Premises in accordance with the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations; and
- (h) detailed comments under the BO can only be provided at the building plan submission stage.

Traffic

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

- (a) no in-principle objection to the application from traffic engineering perspective, as the Premises has a small and constrained site layout, and is conveniently located close to mass transport/public transport services and small in scale with parking and L/UL facilities available in the Building; and
- (b) he reserves the rights to impose, alter or cancel any car parking, L/UL facilities, any no-stopping restrictions, and/or necessary traffic management measures on all local roads to cope with changing traffic conditions and needs. The frontage road space would not be reserved for any exclusive uses of the subject development.

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

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

10. Public Comments Received During Statutory Publication Period

On 26.4.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 17.5.2022, one public comment supporting the application was received from a member of Kwun Tong Central Area Committee without giving any reason (**Appendix II**).

11. Planning Considerations and Assessments

11.1 The application is to seek planning permission for proposed 'Shop and Services' use at the Premises, which is currently occupied by a money exchange shop without

valid planning permission. The planning intention of the “OU(B)” zone is for general business uses. It allows greater flexibility in the use of the existing industrial or I-O buildings provided that the proposed use would not induce adverse fire safety and environmental impacts. The proposed ‘Shop and Services’ use is considered generally in line with the planning intention.

- 11.2 The KTBA is being transformed into commercial use with many similar applications for ‘Shop and Services’ use approved for the 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 the TPB PG-No. 22D in that it would not induce adverse fire safety, traffic, and environmental 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 or no adverse comment on the application.
- 11.4 As advised by D of FS, the Building is protected with a sprinkler system, which is subject to a maximum permissible limit of 460m² for aggregated commercial floor area on G/F and the proposed use should count towards the aggregate commercial floor area. As mentioned in paragraph 6.1 above, there is no valid similar application in respect of G/F of the Building. Should the Committee approve the application, the aggregated commercial floor area on G/F of the Building will be 29.04m², which is within the maximum permissible limited of 460m². Direct access is provided for the Premises with street frontage at Hung To Road. In this regard, D of FS has no objection to the application subject to an approval condition on the submission and implementation of the proposal for fire safety measures as detailed in paragraph 12.2(a) below.
- 11.5 One supportive public comment as stated in paragraph 10 above is noted.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taking into account the public comment mentioned in paragraph 10 above, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, no time clause on commencement is proposed as the ‘Shop and Services’ use under application is already in operation. 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 within six months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 10.12.2022; and
- (b) if the above planning condition (a) 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 III**.

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 and supplementary information received on 19.4.2022 and 21.4.2022 respectively
Appendix Ia	FI received on 12.5.2022
Appendix II	Public comment received during the statutory publication period
Appendix III	Recommended advisory clauses
Drawing A-1	Location of the Premises on G/F of the Building
Drawing A-2	Layout plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Existing uses on the G/F of the Building
Plans A-4 and A-5	Site photos

**PLANNING DEPARTMENT
JUNE 2022**