

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K14/816

- Applicant** : Mr. LEUNG Sheung Fat and Ms. TANG Miu San represented by Prudential Surveyors International Limited
- Premises** : Unit A on G/F, Winner Factory Building, 55 Hung To Road, Kwun Tong, Kowloon
- Floor Area** : About 147m²
- Lease** : (a) Kun Tong Inland Lot (KTIL) Nos. 40 and 41
(b) Restricted for general industrial purpose
- 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 Unit A on G/F of an existing industrial building (IB), namely Winner Factory 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 the applicant and recent site inspection, the Premises is currently used as a shop selling mechanical materials and small parts, 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 received on 26.5.2022 (Appendix I)
 - (b) Supporting planning statement received on 26.5.2022 (Appendix Ia)
 - (c) Further Information (FI) received on 5.7.2022 providing clarification on the applied use as ‘Shop and Services (not elsewhere specified)’ (Appendix Ib)
[FI accepted and exempted from the publication and recounting requirements]

1.4 Plan showing the G/F of the Building submitted by the applicant is at **Drawing A-1**.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application as set out in the Supporting Planning Statement at **Appendix I** are summarised as follows:

- (a) the proposed use is in line with the planning intention of the “OU(B)” zone and is compatible with the surrounding land use, and echoes the policy initiative to facilitate the transformation of Kowloon East into an attractive a core business district;
- (b) the proposed use complies with the fire safety requirements in the Town Planning Board Guidelines for Development within “OU(B)” Zone (TPB PG-No. 22D);
- (c) the current use has been operating since 1980s to meet the local demand. The approval of the application will rationalise the current use; and
- (d) there are similar applications approved in the vicinity. The approval of the current application would not result in an undesirable precedent case.

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 a similar application (No. A/K14/697) for proposed ‘Shop and Services’ use at Unit C on G/F of the Building (**Plan A-3**), which was approved with conditions on fire safety measures by the Metro Planning Committee (the Committee) of the Board on 25.4.2014. As the similar approved application was lapsed on 25.4.2016, there is no valid similar application on G/F of the Building.
- 6.2 There are a total of 219 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). 185 of them were approved with conditions and the remaining 34 were rejected by the Committee, 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 Plan A-4)

7.1 The Premises:

- (a) occupies Unit A on G/F of an existing IB, namely Winner Factory Building, and is currently used as an electrical shop (**Plans A-2 to A-4**); and
- (b) has entrances fronting Tsuen Yip Street and Hung To Road which are physically separated from the entrance to other floors of the Building (**Plans A-3 and A-4**).

7.2 The Building:

- (a) is located at a corner site fronting Tsun Yip Street and Hung To Road;
- (b) is a 15-storey IB built in 1978 and is equipped with sprinkler system; and
- (c) is currently occupied by the following uses:

| Floor | Main Uses |
|-------|---|
| G/F | The Premises (currently used as electrical shop), retail shop ^[1] , factory canteen, car parking/L/UL area and lift lobby (Plan A-3) |

| Floor | Main Uses |
|-------------|---|
| 1/F to 14/F | Warehouse (1/F to 4/F, 7/F to 9/F and 11/F to 14/F), workshop (3/F, 7/F to 9/F, 11/F and 14/F), office (1/F to 4/F and 6/F to 14/F), mini storage (4/F) and retail shop ^[1] (10/F) |

^[1] No record of planning approval granted for this use.

7.3 The surrounding areas have the following characteristics:

- (a) the neighbouring buildings along Hung To Road and Tsun Yip Street are mainly IBs or I-O buildings (**Plan A-2**);
- (b) the ground floor units of the nearby buildings along Hung To Road are mainly used as lobby area, vehicular ingress/egress, restaurants and real estate agencies. Those along Tsun Yip Street are mainly used as workshops, canteens, banks and retail shops; and
- (c) MTR Kwun Tong Station is approximately 550m to the northeast (**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 Nos. 40 and 41 (the Lots) which are restricted for general industrial purposes;
- (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 owners 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, they are 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 provided with a 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.

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) the applicant is advised to engage an Authorized Person (AP) to ensure that any building works/ change of use are implemented in compliance with the 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 (FS Code);
 - (ii) fire barrier with adequate fire resisting construction between the subject premises and the remaining portion of the building should be provided in accordance with Building (Construction) Regulation 35 and the FS Code;
 - (iii) 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; and

- (iv) adequate sanitary fitments should be provided to the premises in accordance with the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations.
- (d) detailed comments under BO can only be provided at the building plan submission stage;
- (e) for unauthorized building works (UBW) erected on leased land/private buildings (if any), enforcement action may be taken by the Building Authority (BA) to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any UBW on the Site under the BO; and
- (f) if the proposed use under the application is subject to the issue of a licence, the applicant is reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.

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, 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 7.6.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 28.6.2022, one public comment supporting the application was received from a member of Kwun Tong Central Area Committee of Kwun Tong District Council 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 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 147m², which is within the maximum permissible limited of 460m². Direct accesses are provided for the Premises with street frontage at Tsun Yip Street and 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 15.1.2023; 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 received on 26.5.2022 |
| Appendix Ia | Supporting planning statement received on 26.5.2022 |
| Appendix Ib | FI received on 5.7.2022 |
| 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 |
| 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 | Site photos |

**PLANNING DEPARTMENT
JULY 2022**