

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K14/817

- Applicant** : Century Chance Limited represented by Tracesplus Limited
- Premises** : Unit B on G/F, Winner Factory Building, 55 Hung To Road, Kwun Tong, Kowloon
- Floor Area** : About 215.13m²
- 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 B 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 hardware, electric/mechanical fittings and storage, 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 13.7.2022 (Appendix I)
- (b) Further Information (FI) received on 25.8.2022 (Appendix Ia)
- [FI accepted and exempted from the publication and recounting requirements]*
- 1.4 Layout 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 application form at **Appendix I** are summarised as follows:

- (a) the Premises is located in an area that is being transformed to commercial use. The proposed 'Shop and Services' use is in line with the planning intention of the "OU(B)" zone and is compatible with the uses in the Building and the surroundings, and meets the demand of the surrounding area;
- (b) no adverse traffic or environmental impacts nor fire risk is envisaged for the proposed use;
- (c) should the Board approve the planning application, relevant professional/registered contractors will be employed to make necessary submission for the intend layout and obtain necessary approvals to carry out the works; and
- (d) there are similar applications approved in the vicinity.

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 The Metro Planning Committee (the Committee) has so far considered two applications on G/F of the Building for ‘Shop and Services’ use. Both were approved by the Committee with conditions. Among them, application No. A/K14/697 was lapsed (**Plan A-3**). Details of the similar approved applications are summarized in the table below.

Application No.	Unit No.	Applied Uses	Floor Area (m ² about)	Date of Decision	Decision
Uses applicable for the maximum permissible limit of 460m²					
A/K14/697	C	Shop and Services	348.79	25.4.2014 (Lapsed)	Approved with conditions
A/K14/816	A	Shop and Services	147	15.7.2022	Approved with conditions
Total Approved Commercial Floor Area: 147m² ^[1]					

^[1] Excluded floor area with planning permission lapsed.

- 6.2 Should the current application be approved, the resultant total aggregate commercial floor area would be **362.13m²** (i.e. 147m² + 215.13m²).
- 6.3 There are a total of 220 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). 186 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. There is another similar application scheduled for consideration by the MPC at the same meeting.

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 B on G/F of an existing IB, namely Winner Factory Building, and is currently used as a shop selling electronic components (**Plans A-2 to A-**

4); and

- (b) has entrance fronting Hung To Road which is 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)
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 ^[2] (10/F)

^[1] Covered by planning permission No. A/K14/816.

^[2] 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 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, 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 (GBP); 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;
- (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 (BA); 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'

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 FS Code;
 - (ii) 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;
 - (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 GBP submission stage;
- (e) for unauthorized building works (UBW) erected on leased land/ private buildings (if any), enforcement action may be taken by the 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 Premises 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 Premises 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 Aspect

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 22.7.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 12.8.2022, two public comments were received. One comment from a member of Kwun Tong Central Area Committee of Kwun Tong District Council supported the application without giving any reason (**Appendix IIa**), and the other comment stated if the Premises was originally a parking space he would object the application because of the adverse impact on change in use (**Appendix IIb**).

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 and the maximum permissible aggregated commercial floor area on G/F is 460m² and the proposed use should be counted towards the aggregate commercial floor area. Should the Committee approve the application, the aggregated commercial floor area on G/F of the Building will be 362.13m², which is within the maximum permissible limited of 460m² as set out in TPB PG-No. 22D. Direct accesses are 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 Two applications for similar use on the G/F of the Building were approved with conditions by the Committee (**Plan A-3**). There is no change in planning circumstances and the approval of the application is consistent with the previous decisions of the Committee on similar applications.
- 11.6 The supportive public comment as stated in paragraph 10 above is noted. For the original use of the Premises as enquired by the public comment, according to the GBP approved by the BA in 1978, the Premises was a workshop unit instead of a parking space.

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 9.3.2023; 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 13.7.2022
Appendix Ia	FI received on 25.8.2022
Appendices IIa and b	Public comments 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
Plan A-4	Site photos

**PLANNING DEPARTMENT
SEPTEMBER 2022**