

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K14/821

- Applicant** : Hill Prime Group Limited Company
- Premises** : Unit A2 (Part), G/F, Block I, Camelpaint Building, 62 Hoi Yuen Road, Kwun Tong, Kowloon
- Floor Area** : About 40m²
- Lease** : (a) Kun Tong Inland Lot (KTIL) No. 72
(b) Restricted to industrial purposes (excluding offensive trades) and no building shall be erected other than a factory and ancillary offices and quarters for persons essential to the safety and security of the building.
- Plan** : Approved Kwun Tong (South) Outline Zoning Plan (OZP) No. S/K14S/24
- Zoning** : “Other Specified Uses” annotated “Business” (“OU(B)”) [Maximum plot ratio of 12 and maximum building height of 130 metres above Principal Datum]
- Application** : Shop and Services (Fast Food Counter)

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Shop and Services (Fast Food Counter)’ use. The Premises occupies part of Unit A2 on G/F of an existing industrial building (IB), namely Block I of the Camelpaint Building at 62 Hoi Yuen Road (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 The Premises is currently used as a fast food counter without valid planning permission.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 6.10.2022 (Appendix I)
- (b) Further Information (FI) received on 8.11.2022 (Appendix Ia)
- [FI accepted and exempted from the publication and recounting requirements]*
- 1.4 Layout plan of the Premises 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 proposed 'Shop and Services' use is in line with the planning intention of the "OU(B)" zone;
- (b) there are similar applications approved on the G/F of the Building and in the vicinity;
and
- (c) fire services installations, including fire sprinkler and fire alarm, up to relevant standard have been installed in the Premises.

3. Compliance with the Owner's Consent/Notification Requirements

The applicant is not a 'current land owner' but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the "Owner's Consent/Notification" Requirements under Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by sending notification letter to the current land owner. Detailed information would be deposited at the meeting for Members' 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 (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 (CFA) 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

The Premises is the subject of three previous planning applications submitted by different applicants (**Plan A-3**). Applications No. A/K14/553 and A/K14/638 for ‘Shop and Services (Bank)’ use at the entire Unit A2 were approved with conditions by the Metro Planning Committee (the Committee) on 28.9.2007 and 28.1.2011 respectively, and both permissions have lapsed. Another application for ‘Shop and Services (Local Provision Store)’ (No. A/K14/741) was approved with conditions by the Committee on 17.2.2017, and this was revoked subsequently due to non-compliance with the approval condition on submission and implementation of fire safety proposal.

6. Similar Applications

6.1 The Committee has considered 17 applications (including the three previous applications mentioned in paragraph 5 above) on G/F of the Building for proposed ‘Shop and Services’ use (**Plan A-3**). 16 of them were approved by the Committee and details of which are shown in the table below.

Application No.	Unit No.	Applied/Proposed Use	Floor Area (m ² about)	Date of Decision	Decision
Uses <u>NOT</u> subject to the maximum permissible limit of 460m²^[1]					
A/K14/553	A2 ^[2]	Shop and Services (Bank)	195	28.9.2007 (Lapsed)	Approved with Conditions
A/K14/638	A2 ^[2]	Shop and Services (Bank)	195	28.1.2011 (Lapsed)	Approved with Conditions
A/K14/677	A1	Shop and Services (Bank)	82	7.9.2012 (Lapsed)	Approved with Conditions
A/K14/711	A1	Shop and Services (Bank)	82	28.11.2014 (Lapsed)	Approved with Conditions
A/K14/738	A1 & A2 (part)	Shop and Services (Local Provisions Store)	150	17.2.2017 (Lapsed)	Approved with Conditions
A/K14/739	A2 (part)	Shop and Services (2 Fast Food Counters)	39	17.2.2017	Approved with Conditions

Application No.	Unit No.	Applied/Proposed Use	Floor Area (m ² about)	Date of Decision	Decision
Uses <u>NOT</u> subject to the maximum permissible limit of 460m² (Cont'd)					
A/K14/741	A2 (part)^[2]	Shop and Services (Local Provisions Store)	50	17.2.2017 (Revoked)	Approved with Conditions
A/K14/750	A2 (part) & B3 (part)	A2 (part): Proposed Shop and Services (Money Exchange) B3 (part): Proposed Bank (Automated Teller Machine)	20	13.10.2017 (Lapsed)	Approved with conditions on a temporary basis for 3 years ^[3]
Uses subject to the maximum permissible limit of 460m²					
A/K14/444	A1 (part)	Fast Food cum Retail (Bakery) Shop	77.7	30.4.2004 (Lapsed)	Approved with Conditions
A/K14/544	B1 (part)	Shop and Services	70	8.6.2007 (Revoked)	Approved with Conditions
A/K14/554	B3	Shop and Services	240.6	12.10.2007	Approved with Conditions
A/K14/564	B1 (part)	Shop and Services	64.74	18.4.2008 (Revoked)	Approved with Conditions
A/K14/571	B2	Shop and Services (Retail Shop)	107.74	19.9.2008	Approved with Conditions
A/K14/591	B1 (part)	Shop and Services	64.74	5.6.2009 (Lapsed)	Approved with Conditions
A/K14/624	B1	Shop and Services	121.5^[4]	24.9.2010	Approved with Conditions
A/K14/740	A2 (part)	Shop and Services (Money Exchange)	8	17.2.2017	Rejected / Not Agreed
Total Approved Floor Area still with Valid Planning Permission^[5]: 469.84m²					

^[1] As set out in TPB PG-No. 22D (see paragraph 4(c)), the limits on CFA do not apply to bank, fast food counter, electrical shop, local provisions store and showroom in connection with the main industrial use.

^[2] The Premises formed part of the application premises.

^[3] Planning permission for a period of three years was imposed to monitor the situation on implementation and compliance of approval conditions.

^[4] When considering application No. A/K14/624, FSD advised that the exceedance of about 10m² of the aggregate CFA was acceptable as the CFA was less than the maximum permissible limit at the time of considering that application. The application was therefore approved by the Committee, and the aggregate CFA of the Building increased to 469.84m².

^[5] No part of the application premises has been covered in the aggregate CFA.

- 6.2 According to TPB PG-No. 22D, the fast food counter being applied for can be regarded as uses that 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 limit on aggregate CFA on G/F of an IB is therefore not applicable to this application.
- 6.3 There are a total of 222 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), including the Building. 188 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 CFA 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 portion of Unit A2 on G/F of Block I of Camelpaint Building, and is currently used as a fast food counter (**Plans A-4 and A-5**);
- (b) has its own entrance facing Hoi Yuen Road and is separated from the entrance to other floors of the Building (**Drawing A-1**); and
- (c) the other units on G/F, which also have their own individual entrances, are currently used as retail shops and fast food counters, with or without valid planning permission (**Plan A-3**).

7.2 The Building:

- (a) is a 14-storey IB built in 1981 and is equipped with sprinkler system; and
- (b) has the following uses:

Floor	Main Uses
B/F	Car Park
G/F	fast food counter/retail shops [@] , vacant/under renovation, lift lobby, driveway and lavatories (Drawing A-1 and Plan A-3)
1/F	Under renovation
2/F-13/F [#]	Office/workshop, retail shops, place of recreation, sports or culture and eating place

[@] Some of these operations are covered by planning permissions No. A/K14/554, A/K14/571, A/K14/624 and A/K14/739.

[#] Some uses are not allowed in IB or without valid planning approval.

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

- (a) the neighbouring buildings along Hoi Yuen Road are mainly industrial or I-O buildings;
- (b) to its immediate south and southeast are IBs namely, Blocks II and III of Camelpaint Building and to its further southwest is a commercial building, namely, Camelpaint Centre (**Plan A-2**);
- (c) the G/F units of the nearby buildings are mainly used as banks, retail shops,

fast food counters/shops and real estate agencies; and

- (d) MTR Kwun Tong Station is approximately 225m 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 No. 72 (“the Lot”) which is held under Government Lease dated 16.5.1967 for a term of 21 years commencing from 1.7.1955 and renewable for 21 years less 3 days and was further extended to 30.6.2047. The lease conditions of the Lot contain, inter alia, the following restrictions:
 - (i) the user is restricted to industrial purposes (excluding offensive trades); and
 - (ii) no building shall be erected other than a factory and ancillary offices and quarters for persons essential to the safety and security of the building.
- (b) Notwithstanding the restrictions on user and type of building contained in the Lease of the Lot, the whole of Unit A2 is subject to a No-Objection Letter (NOL) dated 12.5.2015 permitting non-residential purposes but excluding: (i) hotel, petrol filling station and residential care home; (ii) offensive trades under the Public Health and Municipal Services Ordinance; and (iii) the use or storage of any dangerous goods; and
- (c) the proposed use of shop and services (fast food counter) is permitted under the said NOL.

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) the fast food counter under application shall only be licensed and operated as ‘food factory’^[1].
- (b) the Building is fully protected with sprinkler system so that the maximum permissible aggregate CFA on G/F is 460m² in accordance with TPB PG-No. 22D. The applied use should not be counted up to the aggregate CFA;
- (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) before any new building works are carried out, prior approval and consent from the BA under the 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;
- (d) 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;

^[1] For the food business involving the preparation of food for sale for human consumption off the premises (excludes business carried out by hawker), a food factory licence must be obtained which is administrated by the Food and Environmental Hygiene Department.

- (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.
- (e) detailed comments under BO can only be provided at the building plan submission stage;
- (f) 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;
- (g) 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; and
- (h) the applicant is also reminded to note Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers PNAP APP-47 that the BA has no powers to give retrospective approval or consent for any UBW.

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

10. Public Comments Received During Statutory Publication Period

On 14.10.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 4.11.2022, one public comment was received. A supportive comment from a member of Kwun Tong Central Area Committee of Kwun Tong District Council was received without giving any reason (**Appendix II**).

11. Planning Considerations and Assessments

- 11.1 The application is to seek planning permission for ‘Shop and Services (Fast Food Counter)’ use at the Premises, which is currently used for the applied use 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 (Fast Food Counter)’ 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 set out in TPB PG-No. 22D, the applied fast food counter is not subject to the maximum permissible limit for aggregate CFA. Moreover, direct access is provided for the Premises with street frontage at Hoi Yuen Road. Furthermore, means of escape separated from the industrial portion is available for the Premises. D of FS has no objection to the application subject to an approval condition in paragraph 12.2(a) below on the submission and implementation of the proposal for fire safety measures.
- 11.5 As detailed in para. 6.1 above, 16 applications for similar shop and services use on the G/F of the Building were approved with conditions by the Committee, including 3 previous applications for local provision store / bank at the Premises /a larger floor area covering the Premises (**Plan A-3**). There is no major 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.

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 (Fast Food Counter)’ 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 25.5.2023; 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 6.10.2022
Appendix Ia	Further information received on 8.11.2022
Appendix II	Public comment received during the statutory publication period
Appendix III	Recommended advisory clauses
Drawing A-1	Layout Plan of the Premises submitted by the Applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Existing uses and similar applications on the G/F of the Building
Plans A-4 and A-5	Site photos