

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K3/594

- Applicant** : Nice Day International Limited represented by RHL Surveyors Limited
- Premises** : 12/F, Yip Kwong Industrial Building, 1139 Canton Road, Mong Kok, Kowloon
- Floor Area** : About 108.5m²
- Lease** : Kowloon Inland Lot (KIL) No. 2789 s.F. RP
(a) 75 years commencing from 30.1.1932, renewable for 75 years
(b) for knitting factory or factory for a similar manufacturing process purposes and no offensive trade shall be permitted
- Plan** : Approved Mong Kok Outline Zoning Plan (OZP) No. S/K3/34
- Zoning** : “Residential (Group E)” (“R(E)”)
(a) maximum plot ratio (PR) of 9.0, of which domestic PR shall not exceed 7.5
(b) maximum building height (BH) of 100 metres above Principal Datum (mPD)
- Application** : Office

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Office’ use. The Premises, with a floor area of about 108.5m², is located on 12/F of Yip Kwong Industrial Centre fronting Canton Road (**Drawing A-1 and Plan A-2**). According to Schedule II of the Notes for the “R(E)” zone applicable to existing industrial or industrial-office building, ‘Office’ use¹ in general is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Premises is being used as an office without valid planning permission as revealed at the site visit conducted by the Planning Department (PlanD) on 8.4.2022.

¹ According to the Notes of OZP, ‘Office (Audio-visual Recording Studio, Design and Media Production, Office Related to Industrial Use only)’ use is a Column 1 use which is always permitted in “R(E)” zone.

- 1.2 The Premises occupies the entire 12/F, including the lift hall and two lavatories but excluding the staircases and lift shaft. The layout plan submitted by the applicant is shown on **Drawing A-1**.
- 1.3 In support of the application, the applicant submitted an application form and clarification email on 28.2.2022 and 1.3.2022 respectively (**Appendices I and Ia**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 10 of the application form and clarification email at **Appendices I and Ia**. They can be summarised as follows:

- (a) The office is not directly supporting of and complementary to an associated industrial operation.
- (b) The office is small in scale with no direct provision of services or goods to public. It is compatible with the surrounding use and thus, increase in traffic and pedestrian flow are considered minimal.
- (c) The subject industrial building is well served by public transport and no adverse traffic impact is anticipated. A multi-storey car park is located opposite to the subject industrial building providing sufficient parking spaces.
- (d) There are similar approved planning applications in the vicinity.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Application

There is no previous application for the Premises.

5. Similar Applications

While there is no similar application for office use within the subject industrial building, there are two applications (No. A/K3/540 and A/K3/542) for office use at individual units/floors within other “R(E)” zones in Mong Kok since 2012. All applications were approved with conditions by the Committee mainly on the grounds that the proposed developments were not incompatible with the industrial/industrial-related uses in the surroundings; and the relevant Government departments had no adverse comment. The locations and details of these applications are at **Plan A-1 and Appendix II**.

6. **The Premises and its Surrounding Areas** (Plans A-1 to A-2 and photos on Plans A-3 to A-5)

6.1 The Premises:

- (a) occupies the entire 12/F of Yip Kwong Industrial Centre; and
- (b) is currently operating as office.

6.2 The subject building is:

- (a) a 13-storey industrial building completed in 1979 serving by one lift with no provision of car parking and L/UL spaces;
- (b) bounded by Canton Road to its east, an industrial building each to its north and west and a hotel to its south; and
- (c) currently occupied by the following uses on various floors:

Floor	Current Uses
G/F	Shop and services
1/F to 11/F	Locked premises, warehouse and offices
12/F	Application premises

6.3 The surrounding areas have the following characteristics:

- (a) the subject building is located in a belt of “R(E)” zone along the western side of Canton Road occupied by predominately industrial developments (**Plan A-2**);
- (b) the “R(E)” zones separate the residential and commercial/residential area zoned “Residential (Group A)” to the east and industrial and business area zoned “Other Specified Uses” annotated “Business” to the west. There are also some government, institution or community facilities and open space in the surrounding areas; and
- (c) well served by various modes of public transport including buses, public light buses and taxis. The MTR Mong Kok Station is located about 250m to the southeast of the Premises and the MTR Prince Edward Station is located about 350m to the northeast of the Premises (**Plan A-1**).

7. **Planning Intention**

The “R(E)” zone is intended primarily for phasing out of existing industrial uses through redevelopment (or conversion) for residential use on application to the Board. Whilst existing industrial uses will be tolerated, new industrial developments are not permitted in order to avoid perpetuation of industrial/residential interface problem.

8. Comment from the Relevant Government Departments

8.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

8.1.1. Comments of the District Lands Officer/Kowloon West, Lands Department (DLO/KW, LandsD):

- (a) the Premises falls within KIL No. 2789 s.F. RP (“the Lot”) which is held under a Government lease dated 27.9.1935 for a term of 75 years commencing from 30.1.1932 renewable for a further term of 75 years. Under the lease conditions, the Lot is restricted for a knitting factory or factory for a similar manufacturing process purposes and no offensive trade shall be permitted;
- (b) the office at the Premises will be in breach of the user restriction in the lease. If planning approval is given, the owner of the Premises needs to apply to LandsD for a temporary waiver / lease modification for the proposal. She advises that the proposal will only be considered upon receipt of formal application from the applicant. There is no guarantee that the application, if received by LandsD, will be approved and she reserves her comments on such. The application will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the application is approved, it would be subject to such terms and conditions as the Government shall deem fit, including, amongst others, payment of premium/waiver fee and administrative fee as may be imposed by LandsD; and
- (c) it is noted that the Premises is being used for office, which is in breach of the lease conditions. The Government reserves the right to take enforcement actions against any breach of the lease conditions.

Building Matters

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

- (a) no objection to the application;
- (b) all building works should in all aspects comply with the Buildings Ordinance (BO) and its allied regulations;
- (c) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the application site, prior approval and consent of BD should be obtained, otherwise they are Unauthorised Buildings Works (UBW). An Authorised Person should be appointed as the co-ordinator for the

proposed building works in accordance with BO and to ensure full compliance with BO and its allied regulations including the provision on means of escape, fire resisting construction and access and facilities for persons with a disability, etc., in particular,

- (i) provision of adequate means of escape 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) provision of fire barriers with adequate fire resisting construction between the subject premises and the remaining portion of the building in accordance with Building (Construction) Regulation 35 and the FS Code;
 - (iii) provision of access and facilities for persons with a disability in accordance with B(P)R 72 and Design Manual: Barrier Free Access 2008; and
 - (iv) provision of adequate sanitary fitments to the premises in accordance with the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations;
- (d) for UBW erected on leased land, enforcement action may be taken by BD 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 existing building works or UBW on the application site under BO;
- (e) detailed comments under BO can only be provided at the building plan submission stage; and
- (f) the applicant should also pay attention to Practice Note for Authorised Persons, Registered Structural Engineers and Registered Geotechnical Engineers APP-47 that the Building Authority has no power to give retrospective approval or consent for any UBW.

Fire Safety

8.1.3. Comments of the Director of Fire Services (D of FS):

he has no in-principle objection to the application subject to the fire services installations and water supplies for firefighting being provided to the satisfaction of D of FS. Detail fire services requirements will be formulated upon receipt of formal submission of general building plans.

Traffic

8.1.4. Comments of the Commissioner for Transport (C for T):

- (a) he has no in-principle objection to the application from traffic engineering perspective given the following observations:
 - (i) small and constrained site layout;
 - (ii) conveniently located to mass transport/public transport services; and
 - (iii) small scale of development; and
- (b) the applicant is reminded that C for T has the rights to impose, alter or cancel any car parking, loading/unloading facilities and/or any no-stopping restrictions, on all local roads to cope with changing traffic conditions and needs. The frontage road space shall not be reserved for any exclusive uses of the subject development.

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

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

9. Public Comments Received During Statutory Publication Period

During the statutory public inspection period, no public comment on the application was received.

10. Planning Considerations and Assessments

- 10.1 The application is to seek planning permission for 'Office' use at the Premises within an existing industrial building zoned "R(E)" on the OZP. While planning intention of the "R(E)" zone is primarily for phasing out of existing industrial uses through redevelopment (or conversion) for residential use, meanwhile the current 'Office' use on 12/F is considered not incompatible with other uses in the same building involving mainly industrial uses and vacant premises and the surrounding developments involving mainly residential, commercial and industrial/business uses.
- 10.2 The applied use is small in scale and is not expected to generate adverse impact on the surrounding areas. D of FS has no objection in principle to the application subject to approval condition on provision of fire safety measures. C for T has no adverse comment on the application from traffic engineering perspective.

Relevant Government departments including BD, DEP and DO(YTM), HAD have no objection to or no adverse comment on the application.

- 10.3 While there is no similar application for office use within the subject industrial building, there are two similar applications for office use at individual unit/floor of another industrial building within other “R(E)” zone in the same OZP which were approved with conditions by the Committee since 2012 (**Plan A-1** and **Appendix II**). As there is no change in planning circumstances, approval of the application is consistent with the previous decisions of the Committee on similar applications.
- 10.4 No public comment on the application was received during the publication period.

11. Planning Department’s Views

- 11.1 Based on the assessment made in paragraph 10 above, the Planning Department has no objection to the application.
- 11.2 Should the Committee decide to approve the application, no time clause on the commencement is proposed as the office use under application is already in operation at the Premises. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval Conditions

- (a) the submission and implementation of fire services installations and water supplies for firefighting for the application premises within six months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 22.10.2022; and
- (b) if the above planning condition 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**.

- 11.3 There is no strong reason to recommend rejection of the application.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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 the validity of the permission should expire.

- 12.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for the rejection should be given to the applicant.

13. Attachments

Appendix I	Application form received on 28.2.2022
Appendix Ia	Clarification email received on 1.3.2022
Appendix II	Similar Applications within “R(E)” Zone in Mong Kok since 2012
Appendix III	Recommended Advisory clauses
Drawing A-1	Layout Plans
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3 to A-5	Site photos

**PLANNING DEPARTMENT
APRIL 2022**