

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K3/599

- Applicant** : Mr. Chow Wai-kwan
- Premises** : G/F (Portion), The Cloud, 111 Tung Chau Street, Tai Kok Tsui, Kowloon
- Floor Area** : About 9.6m²
- Lease** : Kowloon Inland Lot No. 7779 (the Lot)
(a) held under Government lease for a term of 75 years commencing from 18.4.1955 and renewable for a further term of 75 years
(b) restricted for industrial purposes with standard offensive trade clause under the Government lease
- Plan** : Draft Mong Kok Outline Zoning Plan (OZP) No. S/K3/37
- Zoning** : “Other Specified Uses” annotated “Business” (“OU(B)”)
(a) maximum plot ratio (PR) of 12
(b) maximum building height of 110 metres above Principal Datum
- Application** : Proposed Shop and Services

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed ‘Shop and Services’ use at the application premises (the Premises) (**Plans A-1 and A-2**). According to the Notes of the OZP under Schedule II of the “OU(B)” zone for industrial or industrial-office (I-O) buildings, ‘Shop and Services’ on G/F is a Column 2 use which requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises with a floor area of 9.6m² occupies a small portion of G/F of an existing industrial building (IB) known as The Cloud. It has direct shop frontage at Tung Chau Street and is currently under renovation (**Plan A-3**). According to the layout plans submitted by the applicant (**Drawings A-1 and A-2**), the Premises is proposed as two independent units, each with a separate entrance at Tung Chau Street and both units will be separated from the remaining G/F area of the IB.
- 1.3 In support of the application, the applicant has submitted the following documents:
- | | |
|---|----------------------|
| (a) Application Form received on 29.8.2024 | (Appendix I) |
| (b) Further Information (FI) received on 8.10.2024* | (Appendix Ia) |
- * exempted from publication and recounting requirements

2. Justification from the Applicant

According to the Application Form (**Appendix I**), the justification put forth by the applicant in support of the application is that while there are industrial workshops on G/F of IBs along Tung Chau Street and Maple Street, there is a lack of shops in the area.

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

The applicant is not a “current land owner” but has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by obtaining consent from 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 are 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) the 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 on G/F of an existing industrial/I-O building with and without sprinkler systems should as a general principle 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 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 Application

The existing IB is the subject of a previous planning application (No. A/K3/582) for the redevelopment of pre-1987 IB approved with conditions by the Metro Planning Committee (the Committee) of the Board on 17.3.2020 (**Plan A-1**). The application was submitted by a different applicant for proposed minor relaxation of PR restriction for permitted non-polluting industrial use (excluding industrial undertakings involving the use/storage of dangerous goods). The existing IB was subsequently completed in 2022 with the Premises being part of the entrance foyer under the approved building plans.

6. Similar Applications

There have been two similar applications for ‘Shop and Services’ use on G/F of two other IBs within the “OU(B)” zone on the Mong Kok OZP since ~~2007~~ **2001** (**Plan A-1**). The applications (Nos. A/K3/455 and A/K3/586) were approved by the Committee of the Board on 24.6.2005 and 3.1.2020 respectively with an approval condition on the provision of fire safety measures. The major grounds of approval included compatibility with the uses in the same building/surrounding areas; no potential adverse impacts; and no objection from FSD to the application.

7. The Premises and its Surrounding Areas (Plans A-1 and A-2 and Site Photos on **Plan A-3)**

7.1 The location and current conditions of the Premises are detailed in paragraph 1.2 above.

7.2 The subject IB has the following characteristics:

- (a) comprising 26 storeys (including one basement level) and equipped with a sprinkler system; and
- (b) current floor uses:

Floor	Main Uses
Basement	Car parking spaces
G/F	The Premises (currently vacant) and loading/unloading spaces
1/F to 28/F [#]	Workshops, offices, studios*, retail shops* and vacant units

[#] Excluding sky garden on 3/F, as well as 4/F, 13/F, 14/F and 24/F which are omitted

* Without valid planning permission

7.3 The surrounding areas have the following characteristics:

- (a) the subject IB is located within the business area at Tai Kok Tsui zoned “OU(B)” and occupied mainly by IBs and I-O buildings;

- (b) it is bounded by Tung Chau Street and Maple Street to the northeast and northwest respectively;
- (c) to the immediate southeast and south are a hotel development and an IB respectively (i.e. Starphire Hotel and Mow Shing Centre);
- (d) to the southwest across Maple Street is the Kowloon Funeral Parlour, while to the north across Tung Chau Street is the Sycamore Playground; and
- (e) served by various modes of public transport including buses and public light buses on Tung Chau Street and Tai Kok Tsui Road.

8. Planning Intention

The planning intention of the “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 summarised as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer/Kowloon West (DLO/KW), LandsD:

- (a) the Premises falls within the Lot, which is held under Government lease for a term of 75 years commencing from 18.4.1955 and renewable for a further term of 75 years. According to the lease condition, the Lot is restricted for industrial purposes with standard offensive trade clause under the Government lease; and
- (b) the proposed ‘Shop and Services’ use at the Premises will be in breach of the lease restrictions governing the Lot. If planning approval is given, the owner of the Premises should apply to LandsD for a waiver or lease modification for the proposed use. However, there is no guarantee that the approval will be given. Such application will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event any such 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.

Building Matters

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

- (a) no in-principle objection to the application;
- (b) all building works/change in use should be in compliance with the Buildings Ordinance; and
- (c) detailed comments are at **Appendix II**.

Fire Safety

9.1.3 Comments of D of FS:

- (a) no comment on the application subject to:
 - (i) the maximum permissible aggregate commercial floor area on G/F not exceeding 460m²;
 - (ii) means of escape completely separated from the industrial portion of the building being available for the Premises; and
 - (iii) fire service installations and equipment being provided to the satisfaction of D of FS; and
- (b) detailed comments are at **Appendix II**.

9.2 The following Government departments have no objection to or no comment on the application:

- (a) Commissioner for Transport (C for T);
- (b) Director of Environmental Protection; (DEP);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (e) Chief Highway Engineer/Kowloon, Highways Department (CHE/K, HyD);
- (f) Commissioner of Police;
- (g) Director of Food and Environmental Hygiene; and
- (h) District Officer (Yau Tsim Mong), Home Affairs Department.

10. Public Comments Received During Statutory Publication Period

During the statutory 3-week public inspection period, one comment from an individual was received. He considers that if the operation of the Premises were related to information technology, it would match the name of the subject IB (i.e. The Cloud) better.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed 'Shop and Services' use at the Premises which is on the G/F of an existing IB zoned "OU(B)". While the planning intention of the "OU(B)" zone is primarily for general business uses, it allows greater flexibility in the use of the existing industrial or I-O buildings provided that the use would not result in adverse fire safety or environmental impacts. The applied use at the Premises is considered generally in line with the planning intention.
- 11.2 The proposed use under the application with a total floor area of about 9.6m² is small in scale, and is considered not incompatible with the industrial-related uses in the subject IB and surrounding developments which are predominantly industrial and I-O in nature. The Premises has direct shop frontage at Tung Chau Street. The application complies with TPB PG-No. 22D in that it would unlikely induce adverse impacts in terms of fire safety, traffic and environmental concerns on the subject IB and adjacent developments. Relevant Government departments consulted including CBS/K of BD, D of FS, C for T, DEP, CE/C of WSD and CE/MS of DSD have no objection to or adverse comment on the application.
- 11.3 As confirmed by D of FS, the subject IB is provided with a sprinkler system subject to a maximum permissible aggregate commercial floor area on G/F of 460m² in accordance with TPB PG-No. 22D. Apart from the Premises, there is no other commercial use on G/F of the IB. Should the application be approved, the commercial floor area of 9.6m² is within the said permissible limit. D of FS has no in-principle objection to the application. To address D of FS's comment, an approval condition and advisory clauses on fire safety measures are recommended in paragraph 12.2 below.
- 11.4 Two applications for 'Shop and Services' use on G/F of two other IBs within the "OU(B)" zone on the same OZP have been approved by the Committee since 2007. There is no change in planning circumstances and the approval of the current application is consistent with the previous decisions of the Committee on similar applications.
- 11.5 One public comment on the application was received, which is mainly related to the suitable use of the subject IB. As stated in paragraph 11.1 above, the application is generally in line with the planning intention of the "OU(B)" zone.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 25.10.2028, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval conditions

- (a) the submission and implementation of the fire safety measures including the provision of fire service installations and equipment, and means of escape separated from the industrial portion to the satisfaction of the Director of Fire Services or of the Town Planning Board before operation of the use; and
- (b) if the above planning condition (a) is not complied with before operation of the use, 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 II**.

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 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 the 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 29.8.2024
Appendix Ia	FI received on 8.10.2024
Appendix II	Recommended Advisory Clauses
Drawings A-1 and A-2	Layout Plans
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2024**