

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K5/837

- Applicant** : Profit Key Holdings Limited represented by Grandmax Surveyors Limited
- Premises** : Portion of Workshop C3, G/F, Block C, Hong Kong Industrial Centre, 489-491 Castle Peak Road, Lai Chi Kok, Kowloon
- Floor Area** : About 53m²
- Lease** : New Kowloon Inland Lot (NKIL) No. 3515 s.C, s.D and s.F
- (a) governed by Conditions of Sale No. 4268 dated 1.4.1948 as varied or modified by Conditions of Exchange No. 4481 dated 28.8.1950 for factory purposes
- (b) permitted for showroom purpose by a Waiver Letter dated 23.4.2008
- Plan** : Approved Cheung Sha Wan Outline Zoning Plan (OZP) No. S/K5/37
- Zoning** : “Other Specified Uses” annotated “Business (2)” (“OU(B)2”)
- (a) maximum plot ratio of 12
- (b) maximum building height of 130 metres above Principal Datum
- (c) minimum setback of 3.5m from the lot boundary abutting Castle Peak Road
- 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). The Premises occupies a portion of Workshop C3 on G/F of an existing industrial building, namely Block C of Hong Kong Industrial Building, which falls within an area zoned “OU(B)2” on the approved Cheung Sha Wan OZP No. S/K5/37 (**Plan A-1**). According to 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 industrial building requires planning permission from the Town Planning Board (the Board).

- 1.2 The proposed floor plan and layout plan submitted by the applicant, are at **Drawings A-1** and **A-2** respectively. According to the applicant's submission, the Premises is proposed to be sub-divided into three units (i.e. Workshops C3-A, C3-B and C3-C) for the applied use with direct access from Castle Peak Road (**Drawing A-2**). The Premises is subject to Application No. A/K5/667 for 'Shop and Services (Showroom)' use (**Plan A-2a**), and the newly proposed use is for general 'Shop and Services' use, which is countable for the aggregate commercial floor area under the Town Planning Board Guidelines for Development within "OU(B)" Zone. Part of Workshop C3 is currently used as showroom and part of it is vacant (**Plan A-3**).
- 1.3 In support of the application, the applicant has submitted the following documents:
- Application form received on 2.8.2021 and (Appendix I)
supplementary information received on 6.8.2021

2. Justifications from the Applicant

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

- (a) the applied use is in line with the planning intention of the "OU(B)" zone and the Town Planning Board Guidelines for Development within "OU(B)" Zone. It is also compatible with the uses in the surrounding areas which is under transformation and other uses in the ground floor of the subject industrial building;
- (b) if the applied use is approved, the aggregate commercial floor area on the G/F of the subject industrial building, which is equipped with a sprinkler system, would not exceed the maximum permissible limit of 460m² under TPB PG-No. 22D;
- (c) there is a demand for shop and services use in the neighbourhood as there are growing number of redevelopments in the locality in recent years;
- (d) the layout of the units as proposed will be accessible via the frontage along Castle Peak Road. The applied use will not induce adverse impact and fire risk. The applicant is willing to engage fire services consultant to review and upgrade/provide suitable fire services installation once necessary; and
- (e) there are numerous similar approved applications for 'Shop and Services' uses in the surrounding area. Favourable consideration should be given to the subject application.

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 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 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 the ground floor of an existing industrial/I-O building with and without sprinkler systems should as a general principle not exceed 460m² and 230m² respectively. 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 Applications (Plan A-2a)

5.1 The Premises falls within part of the application premises of two previous applications. Application No. A/K5/603 (122.907m²) for temporary ‘Shop and Services (Showroom for Garments)’ (**Plan A-2a**) was approved with conditions by the Metro Planning Committee (the Committee) of the Board on 13.1.2006 for a period of 3 years. Application No. A/K5/667 (122.91m²) for ‘Shop and Services (Showroom)’ use (**Plan A-2a**) was approved with conditions by the Committee of the Board on 13.2.2009. The approval condition in relation to the submission and implementation of fire service installations was complied with. These two applications were submitted by same applicants who were different from the current application.

5.2 Details of the previous applications are at **Appendix II**.

6. Similar Applications

- 6.1 The Committee has considered 25 applications (including the previous applications Nos. A/K5/603 and A/K5/667 mentioned in paragraph 5 above) for ‘Shop and Services’/ ‘Showroom’ uses on G/F of the subject industrial building (**Plan A-2a**)¹. All of these applications were approved with conditions by the Committee. The details of the approved applications are shown in the table below.

Application No.	Unit No.	Proposed Use	Floor Area (m ²)	Date of Consideration	Decision
Uses applicable for the maximum permissible limit of 460m ² for aggregate commercial floor area on G/F of an industrial building (with sprinkler systems)					
A/K5/757	C7	Shop and Services	208.5	17.10.2014	Approved with conditions
A/K5/765	C2 (Portion)	Shop and Services	45	17.7.2015	Approved with conditions
A/K5/785	C1 (Portion)	Shop and Services (Estate Agency)	12.4	22.9.2017	Approved with conditions
A/K5/805	C4 (Portion)	Proposed Shop and Services	12.612	16.8.2019 (Revoked)	Approved with conditions
A/K5/821	C4 (Portion)	Shop and Services	55.75	4.9.2020 (Revoked)	Approved with conditions
A/K5/828	C2 (Portion)	Shop and Services	183.35	5.2.2021 (Revoked)	Approved with conditions
Total Approved Commercial Floor Area*:			265.9m ²		
Uses not applicable for the maximum permissible limit of 460m ² for aggregate commercial floor area on G/F of an industrial building (with sprinkler systems)					
A/K5/508	C2	Showrooms for a Period of 3 Years	192.42	13.9.2002 (Expired)	Approved

¹ When the site was zoned “I” before it was rezoned to “OU(B)” in 2001, there were a total of 30 planning applications for showroom, retail shop and office uses at G/F of the subject industrial building. Out of these 30 applications, 22 applications were approved with conditions and eight were rejected. The 22 approved applications either lapsed, expired or were for use (Showroom) not applicable for the maximum permissible limit of 460m² for aggregate commercial floor area on G/F of an industrial building, and hence they are not included in the table of paragraph 6.1.

Application No.	Unit No.	Proposed Use	Floor Area (m²)	Date of Consideration	Decision
A/K5/532	C1	Showrooms for Garments and Ancillary Storage for a Period of 3 Years	392.5	27.6.2003 (Expired)	Approved with conditions on a temporary basis
A/K5/535	C4	Showrooms for Garments	194.3	15.8.2003	Approved with conditions
A/K5/536	C6 (Portion)	Showrooms for Garments	279.91	15.8.2003	Approved with conditions
A/K5/538	C8	Showrooms for Garments	239.97	19.9.2003	Approved with conditions
A/K5/544	C5	Shop and Services (Showroom) for a Period of 3 Years	239.97	9.1.2004 (Expired)	Approved with conditions on a temporary basis
A/K5/545	C13	Shop and Services (Showroom with Ancillary Storage)	347	9.1.2004	Approved with conditions
A/K5/546	C10	Shop and Services (Showroom with Ancillary Storage)	367	9.1.2004	Approved with conditions
A/K5/547	C11	Shop and Services (Showroom with Ancillary Storage)	196	9.1.2004	Approved with conditions
A/K5/548	C9	Shop and Services (Showroom with Ancillary Storage)	243	9.1.2004	Approved with conditions
A/K5/551	C7	Shop and Services (Showroom) for a Period of 3 Years	217	9.1.2004 (Expired)	Approved with conditions on a temporary basis
A/K5/559	C12	Shop and Services (Showroom) for a Period of 3 Years	184.2	26.3.2004 (Expired)	Approved with conditions on a temporary basis
A/K5/563	C2 (Portion)	Shop and Services (Retail Shop) for a Period of 3 Years	10.31	14.5.2004 (Expired)	Approved with conditions on a temporary basis
A/K5/603	C3 (Portion)	Temporary Shop and Services (Showroom for Garments) for a Period of 3 Years	122.907	13.1.2006 (Expired)	Approved with conditions on a temporary basis

Application No.	Unit No.	Proposed Use	Floor Area (m ²)	Date of Consideration	Decision
A/K5/609	C1	Temporary Shop and Services (Showroom for Garments) for a Period of 3 Years	392.5	17.3.2006 (Expired)	Approved with conditions on a temporary basis
A/K5/618	C2	Temporary Shop and Services (Showroom for Garments) for a Period of 3 Years	192.42	1.9.2006 (Expired)	Approved with conditions on a temporary basis
A/K5/667	C3 (Portion)	Shop and Services (Showroom for Garments)	122.907	13.2.2009	Approved with conditions
A/K5/673	C1	Shop and Services (Showroom for Garments)	332.45	8.5.2009	Approved with conditions
A/K5/684	C2	Shop and Services (Showroom for Garments)	192.42	4.12.2009	Approved with conditions

**The total floor areas have excluded the floor areas in overlapping premises and approval cases of which planning permissions have been lapsed/revoked.*

6.2 According to TPB PG-No. 22D, the proposed ‘Shop and Services’ use under application is subject to a maximum permissible limit of 460m² for aggregate commercial floor area on G/F of the subject industrial building with a sprinkler system. If the application is approved, the aggregate commercial floor areas approved (by the Committee) on G/F of the subject industrial building will be 318.9m², which is within the maximum permissible limit.

6.3 Since 2001, the Committee has considered 157 planning applications for various ‘Shop and Services’ uses on G/F of industrial and I-O buildings within the “OU(B)” zone in the Cheung Sha Wan Industrial/Business Area. The Committee approved 147 of them while rejecting 10 mainly for fire safety reasons.

7. **The Site and Its Surrounding Areas** (Plans A-1, A-2, A-2a and A-2b and Sites Photos on Plan A-3)

7.1 The Premises:

- (a) occupies portion of Workshop C3 on G/F of Block C of Hong Kong Industrial Centre; and
- (b) is sub-divided into three units and used partly as showroom according to the layout approved under Application No. A/K5/667.

7.2 The subject industrial building has the following characteristics:

- (a) is a 14-storey industrial building (including one level of basement for car parking spaces) completed in 1982 and equipped with a sprinkler system; and
- (b) is currently used for the following purposes:

Floor	Main Uses
G/F	The Premises , showrooms, fast food shops, money exchanges and real estate agencies
1/F to 12/F	Industrial-related offices/ trading firms, warehouses and workshops

7.3 The surrounding areas have the following characteristics:

- (a) it is an established industrial/business area in Cheung Sha Wan (which was rezoned from “T” to “OU(B)”);
- (b) the subject industrial building is surrounded mainly by industrial and I-O buildings with some ‘Shop and Service’ and ‘Showroom’ uses on G/F; and
- (c) it is easily accessible by various modes of public transport with Mass Transit Railway Lai Chi Kok Station located about 250m away to the south of the subject industrial building (**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 summarised as follows:

Land Administration

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

- (a) the Premises falls within NKIL No. 3515 s.C, s.D and s.F which is governed by the Conditions of Sale No. UB4268 dated 1.4.1948 as varied or modified by Conditions of Exchange (and Modification)

No. 4481 dated 28.8.1950 (the Conditions) for factory purposes. By a Waiver Letter dated 23.4.2008, the Premises is permitted for showroom purposes; and

- (b) the proposed shop and services use at the Premises does not comply with the Conditions nor the Waiver Letter. Should the planning application be approved, the owner of the Premises has to apply to LandsD for a waiver or no-objection letter for the proposed use. However, there is no guarantee that approval will be given. If the application is approved by LandsD acting in the capacity as the private landlord at its sole discretion, it will be subject to payment of fee/premium and imposition of other terms as may be appropriate.

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/ alterations and additions works/ change of use are subject to compliance with the Buildings Ordinance (BO). The applicant is advised to appoint an Authorized Person to ensure any building works/ alterations and additions works/ change of use are in compliance with BO, including (but not limited to) the following:
 - (i) adequate means of escape should be provided to the subject premises in accordance with the Building (Planning) Regulation 41(1) and the Code of Practice for Fire Safety in Buildings 2011 (FS Code);
 - (ii) the subject premises should be separated from the remaining portion of the building by fire barriers of adequate fire resistance rating pursuant to the Building (Construction) Regulation 35 and the FS Code;
 - (iii) adequate provision of sanitary fitments should be provided to the subject premises in accordance with the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations 7A; and
 - (iv) adequate provision of barrier free access to the subject premises should be provided in accordance with the Building (Planning) Regulations 72 and Design Manual: Barrier Free Access 2008;
- (c) for unauthorized building works (UBW) erected on private land/buildings, enforcement action may be taken by the Building Authority 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 application site under the BO;

- (d) attention of the applicant should be drawn to Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers PNAP APP-47 that the Building Authority has no powers to give retrospective approval or consent for any UBW; and
- (e) detailed comments under the BO will be given at the building plan submission stage.

Fire Safety

9.1.3 Comments of the Director of Fire Services (D of FS):

- (a) no in-principle objection to the application subject to:
 - (i) fire service installations and equipment being provided to the satisfaction of D of FS. 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 subject unit;
- (b) the building is provided with a sprinkler system so that the maximum permissible aggregate commercial floor area on G/F is 460m² in accordance with TPB PG-No.22D. The applied use should be counted up to the aggregate commercial floor area. Regarding matters related to fire resisting construction of the premises, the applicant is reminded to comply with the “Code of Practice for the Fire Safety in Buildings” which is administered by the Building Authority; and
- (c) the applicant should be reminded to follow the “Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises”, if the application is approved.

Traffic

9.1.4 Comments of the Commissioner for Transport (C for T):

- (a) no in-principle objection to the application at nil provisions of car parking and loading/unloading spaces given that the site is small with constrained layout, conveniently located to mass transport/public transport services, and the development scale is small; and
- (b) the applicant should be 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 would not be reserved for any exclusive uses of the subject development.

Other Aspect

9.1.5 Comments from the Director of Food and Environmental Hygiene (DFEH):

no comment on the application provided that the operation shall not cause any environmental nuisance to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should arrange disposal properly at their own expenses.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (c) Chief Highway Engineer/Kowloon, Highways Department (CHE/K, HyD);
- (d) Commissioner of Police (C of P); and
- (e) District Officer (Sham Shui Po), Home Affairs Department (DO(SSP), HAD).

10. Public Comments Received During Statutory Publication Period

During the three-week statutory public inspection period, two supporting public comments were received from individuals without stating any detailed comments (**Appendix III**).

11. Planning Considerations and Assessments

- 11.1 The application is to seek planning permission for proposed 'Shop and Services' use at the Premises. The Premises is currently partly vacant and partly used as showrooms as approved under previous application. 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 proposed use at the Premises is considered generally in line with the planning intention of the "OU(B)" zone.
- 11.2 The Cheung Sha Wan Industrial/Business Area is being transformed into commercial/business uses with many similar applications for 'Shop and Services' use approved on the G/F units of other industrial and I-O buildings in the vicinity of the Premises. The proposed use is considered compatible with the changing land use character of the area. Moreover, the proposed use is considered not incompatible

with other uses of the same industrial building which mainly comprises shop and services and showrooms on the G/F and industrial-related offices/trading firms, warehouses and workshops on the upper floors.

- 11.3 The proposed use in general complies with TPB PG-No. 22D in that it would not induce adverse fire safety, traffic and infrastructural impacts on the developments within the subject industrial building and the adjacent areas. Relevant Government departments including D of FS, C for T, CBS/K of BD, CE/C of WSD and CE/MS of DSD have no comment on/no objection to the application.
- 11.4 As confirmed by D of FS, the subject industrial building is protected by a sprinkler system and subject to a maximum permissible limit of 460 m² for aggregate commercial floor area on G/F in accordance with TPB PG-No. 22D. If the 'Shop and Services' use is approved, the aggregate commercial floor area on the G/F of the subject industrial building, which is equipped with a sprinkler system, will be 318.9m², which is within the maximum permissible limit under TPB PG-No. 22D. As suggested by D of FS, an approval condition to require the submission and implementation of fire service installations to his satisfaction is recommended.
- 11.5 A total of 25 applications for 'Shop and Services' and 'Showroom' uses on the G/F of the subject industrial building were approved with conditions by the Committee since 2001 (Table of paragraph 6.1 above and **Plan A-2a** refer). As there is no change in circumstances, the approval of the application is consistent with the previous decisions of the Committee on the similar applications.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, 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 24.9.2025, 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 fire service installations before operation of the proposed use to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (b) if the above planning condition (a) is not complied with before operation of the proposed 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 IV**.

12.3 There is no strong planning 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.
- 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 2.8.2021 and supplementary information received on 6.8.2021
Appendix II	Previous Applications
Appendix III	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Floor Plan
Drawing A-2	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-2a	Location Plan of Applications on G/F of Block C, Hong Kong Industrial Centre
Plan A-2b	Location Plan of Application on G/F of Blocks B and C, Hong Kong Industrial Centre
Plan A-3	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**