

**APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/K5/859

- Applicant** : Hop Woo Cheung Enterprises Limited represented by Office for Fine Architecture Limited
- Premises** : Portions of Flat B, G/F, Ka Ming Court, 688 Castle Peak Road, Cheung Sha Wan, Kowloon
- Floor Area** : About 101m²
- Lease** : New Kowloon Inland Lot (NKIL) No. 2611 s.A & R.P.
- (a) governed by a Government Lease dated 18.5.1940 as varied or modified by a Deed of Variation dated 16.8.1960
- (b) restricted for general industrial purposes excluding offensive trades
- Plan** : Approved Cheung Sha Wan Outline Zoning Plan (OZP) No. S/K5/39
- Zoning** : “Other Specified Uses” annotated “Business (1)” (“OU(B)1”)
- (a) maximum plot ratio (PR) of 12
- (b) maximum building height (BH) of 130 metres above Principal Datum (mPD)
- Application** : Proposed Shop and Services

1. The Proposal

- 1.1 The applicant seeks planning permission for the proposed ‘Shop and Services’ use at the application premises (the Premises). The Premises, with a floor area of about 101m², occupies two portions of Flat B on G/F of an existing industrial building (IB) within an area zoned “OU(B)1” on the approved Cheung Sha Wan OZP No. S/K5/39 (**Plan A-1**). According to Schedule II of the Notes of the OZP for the “OU(B)” zone applicable to IB, the subject ‘Shop and Services (not elsewhere specified)’ use requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises is currently vacant and consists of two portions, both with direct shop frontage at Castle Peak Road and separate entrances from the IB as well as the remaining portion of Flat B. The layout plan submitted by the applicant is at **Drawing A-1**.

1.3 In support of the application, the applicant has submitted the following documents:

- | | | |
|-----|---|---------------|
| (a) | Application form received on 20.7.2023 | (Appendix I) |
| (b) | Planning Study Report | (Appendix Ia) |
| (c) | Further Information 1 (FI 1) received on 15.8.2023* | (Appendix Ib) |

Remarks:

** FI accepted and exempted from publication and recounting requirements*

2. Justifications from the Applicant

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

- (a) the proposed use is in line with the planning intention of the “OU(B)” zone and compatible with the uses in the surrounding areas;
- (b) the proposed use makes good use of vacant floor space to address the deficiency in shop and services use in the neighbourhood; and
- (c) the proposed use will not induce adverse traffic and environmental impacts.

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. 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 industrial-office (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 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. In all cases, separate means of escape should be available for the commercial portion; 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

There is no previous application at the Premises.

6. Similar Applications

- 6.1 The Committee has considered a total of 5 applications for ‘Shop and Services’/‘Showroom’ uses on G/F of the subject IB (**Plan A-2a**). All of these applications were approved with conditions by the Metro Planning Committee (the Committee) of the Board between 2009 and 2014 on the grounds that the applied uses were considered not incompatible with other uses of the same building and no adverse fire safety and traffic impacts were anticipated. One application has been revoked and one subject to temporary approval has expired. The details of the approved applications are at **Appendix II**.
- 6.2 According to TPB PG-No. 22D, the proposed ‘Shop and Services’ use under the application is subject to a maximum permissible limit of 230m² for aggregate commercial floor area on G/F of the subject IB without a sprinkler system. If the application is approved, the aggregate commercial floor areas approved by the Committee on G/F of the IB will be 230m², which is within the maximum permissible limit.
- 6.3 Since 2001, the Committee has considered 164 planning applications for various ‘Shop and Services’ uses on G/F of IBs and I-O buildings within the “OU(B)” zone in the Cheung Sha Wan Industrial/Business Area (CSWIBA). The Committee approved 154 of these applications and rejected the remaining 10. Failure to address fire safety concerns was the reason for rejecting most of the rejected cases.

7. The Premises and its Surrounding Areas
(Plans A-1, A-2 & A-2a and photos on Plan A-3 to A-5)

7.1 The Premises:

- (a) occupies two portions of Flat B on G/F of Ka Ming Court with direct shop frontage at Castle Peak Road; and
- (b) is currently vacant.

7.2 The subject IB has the following characteristics:

- (a) completed in 1969 with 12 storeys and not equipped with a sprinkler system; and
- (b) current floor uses:

Floor	Main Uses
G/F	The Premises (currently vacant), engineering company and workshop, courier service*, money exchange, coffee shop and real estate agency
1/F to 11/F	Showrooms, workshops/industrial-related offices

*No record of planning approval granted

7.3 The surrounding areas have the following characteristics:

- (a) located in the established CSWIBA (which has been rezoned from “I” to “OU(B)” in 2001) and occupied mainly by IBs and I-O buildings with some ‘Shop and Services’ uses on G/F; and
- (b) easily accessible by various modes of public transport with MTR Lai Chi Kok Station located at about 120m to the south of the subject IB (**Plan A-2**).

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 IBs 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. 2611 s.A & R.P. (the Lots) which are governed by a Government Lease dated 18.5.1940 as varied or modified by a Deed of Variation dated 16.8.1960 (the Lease). The Lots are restricted to be used for general industrial purposes excluding offensive trades; and
- (b) the proposed 'Shop and Services' use at the Premises does not comply with the Lease. 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 the approval will be given. Such application, if received by LandsD, 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 would 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.

Fire Safety

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

- (a) no in-principle objection to the application subject to (i) Fire Service Installations (FSIs) 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 are completely separated from the industrial portion of the building; and
- (b) the building is not provided with a sprinkler system so that the maximum permissible aggregate commercial floor area on G/F is 230m² in accordance with TPB PG-No. 22D. The proposed use should be counted up to the aggregate commercial floor area.

Building Matters

9.1.3 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 of use are subject to compliance with the Buildings Ordinance (BO);
- (c) before any new building works are carried out, prior approval and consent from the Building Authority (BA) under 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; and

- (d) detailed comments are at **Appendix IV**.

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 Premises is small with constrained layout, conveniently located to mass transport/public transport services, and the development scale is small; and
- (b) the applicant should note 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.

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);
- (e) Director of Food and Environmental Hygiene (DFEH); and
- (f) District Officer (Sham Shui Po), Home Affairs Department (DO(SSP), HAD).

10. Public Comments Received During Statutory Publication Period

During the statutory public inspection period, two public comments from individuals were received. One comment indicated support to the application and one objected on the ground that insufficient information for the proposed use was provided (**Appendix III**).

11. Planning Considerations and Assessments

- 11.1 The application is to seek planning permission for the proposed 'Shop and Services' use at the Premises. The planning intention of the "OU(B)" zone is primarily for general business uses. It allows greater flexibility in the use of the existing IBs 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 CSWIBA is being transformed into commercial/business area with many similar applications for 'Shop and Services' use approved on G/F of the subject IB as well as other IBs and I-O buildings in the vicinity. 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 building which mainly comprise shop and services on G/F and showrooms, workshops and industrial-related offices on the upper floors.
- 11.3 The proposed use complies with TPB PG-No. 22D that it would not induce adverse fire safety, traffic and infrastructural impacts on the uses/developments within the same 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 adverse comment on or objection to the application.
- 11.4 As confirmed by D of FS, the subject IB is not protected by a sprinkler system and subject to a maximum permissible limit of 230m² for aggregate commercial floor area on G/F in accordance with TPB PG-No. 22D. If the proposed 'Shop and Services' use is approved, the aggregate commercial floor area approved by the Committee on G/F of the subject IB will be 230m², which is within the maximum permissible limit. As suggested by D of FS, an approval condition to require the submission and implementation of FSIs and equipment to his satisfaction is recommended.
- 11.5 A total of 5 applications for 'Shop and Services'/'Showroom' use on the G/F of the same building were approved with condition(s) by the Committee (**Appendix II** and **Plan A-2a**). 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 Regarding the public comments received, the departmental comments in paragraph 9 and planning assessments above are relevant.

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 8.9.2025, 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 also suggested for Members' reference:

Approval conditions

- (a) the submission and implementation of fire service installations and equipment 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 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 20.7.2023
Appendix Ia	Planning Study Report
Appendix Ib	FI1 received on 15.8.2023
Appendix II	Similar Applications
Appendix III	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-2a	Ground Floor Plan of Ka Ming Court
Plan A-3 to A-5	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2023**