

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K5/860

- Applicant** : Merrytime Industrial Limited represented by Allgain Land Administrators Company
- Premises** : Workshop C1 (Portion), G/F, Block C, Hong Kong Industrial Centre, 489-491 Castle Peak Road, Kowloon
- Floor Area** : About 12.4m²
- Lease** : New Kowloon Inland Lot (NKIL) No. 3515 s.C, s.D and s.F
- (a) governed by 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 restricted for factory purposes
- (b) permitted for showroom and ancillary storage purposes by a Temporary Waiver granted since 12.1.2005
- Plan** : Approved Cheung Sha Wan Outline Zoning Plan (OZP) No. S/K5/39
- Zoning** : “Other Specified Uses” annotated “Business (2)” (“OU(B)2”)
- (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 12.4m², occupies a portion of Workshop C1 on G/F of an existing industrial building (IB) within an area zoned “OU(B)2” 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 with direct shop frontage at Castle Peak Road and separated from the remaining G/F area of the IB. 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 31.7.2023 and supplementary information received on 7.8.2023 **(Appendix I)**
 - (b) Further Information 1 (FI 1) received on 18.8.2023* **(Appendix Ia)**

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 I**. They are summarised as follows:

- (a) the proposed use is in line with the planning intention of the “OU(B)” zone;
- (b) it helps meet the current demand for shop and services uses in the neighbourhood; and
- (c) it will not induce adverse impacts to other users of the IB.

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 Applications

- 5.1 The Premises is part of the sites of six previous planning applications (Nos. A/K5/133, A/K5/215, A/K5/355, A/K5/532, A/K5/609 and A/K5/673) and is same as the site of one previous application (No. A/K5/785) (**Plan A-2a**). Apart from Application No. A/K5/133 which was submitted by a different applicant, the other 6 applications were submitted by the same applicant as the current one.
- 5.2 Application No. A/K5/133 for retail shops and wholesale centre was rejected by the Metro Planning Committee (the Committee) on 12.4.1991. Subsequently, the applicant lodged a review on the application and was also rejected by the Board on review on 16.8.1991 mainly on the grounds that the wholesale centre was not directly ancillary to industries in the building or in the industrial area and there was no operational need for the wholesale centre to occupy such an extensive industrial space (with a total gross floor area of 2,331m²) on the ground floor.
- 5.3 The other six applications for showroom/shop and services uses were approved with conditions by the Committee between 1994 and 2017 either permanently or on a temporary basis (expired) mainly on the grounds that the proposed uses were not incompatible with other uses of the subject IB and would unlikely induce adverse impacts to the surrounding areas.
- 5.4 The details of the previous applications are at **Appendix II**.

6. Similar Applications

- 6.1 The Committee has considered a total of 28 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 Committee between 2003 and 2023 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. Three applications have been revoked and nine subject to temporary approval have expired. The details of the approved applications are at **Appendix III**.

- 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 IB with 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 381.3m², 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 most of the rejected cases.
- 6.4 Another planning application (No. A/K5/859) for ‘Shop and Services’ use within the “OU(B)1” zone is scheduled for consideration by the Committee at the same meeting (**Plan A-1**).

7. The Premises and its Surrounding Areas (Plans A-1, A-2 and A-2a and Site Photos on Plans A-3 and A-4)

- 7.1 The current conditions of the Premises are detailed in paragraph 1.2 above.
- 7.2 The subject IB has the following characteristics:
- (a) completed in 1982 with 14 storeys (including one level of basement for car parking spaces) and equipped with a sprinkler system; and
 - (b) current floor uses:

Floor	Main Uses
G/F	The Premises (currently vacant), showrooms, fast food shops*, money exchange stores, real estate agency and hair salon*
1/F to 12/F	Industrial-related offices/trading firms and warehouses

*No record of planning approval granted for a fast food shop and a hair salon (Workshop C1).

- 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 80m to the southeast 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 3515 s.C, s.D and s.F, which is held under 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 (collectively known as “the Conditions”) restricted for factory purposes. In addition, a Temporary Waiver has been granted to the Premises since 12.1.2005 for showroom and ancillary storage purposes, which was registered in the Land Registry vide Memorial No. UB9459524; and
- (b) the proposed ‘Shop and Services’ use at the Premises does not comply with the Conditions nor the Temporary Waiver. In this regard, the agent acting for the owner of the Premises submitted an application for amendment to the aforesaid Temporary Waiver. If the planning application is approved by the Board, LandsD shall further consider the aforesaid application for waiver amendment. However, there is no guarantee that the approval will be given and he shall reserve his comment 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 shall be subject to such terms and conditions, including, amongst others, payment of waiver fee 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 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 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 V**.

Traffic

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

- (a) no in-principle objection to the application at nil provision of car parking and loading/unloading spaces given that the Premises is small with constrained layout, conveniently located and accessible by 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 were received, including one supporting comment from a member of the Sham Shui Po West Area Committee and one from a garment factory stating that it had no particular comment (**Appendix IV**).

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/showrooms on G/F and industrial-related offices/trading firms and warehouses on the upper floors.
- 11.3 The proposed use complies with TPB PG-No. 22D in 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 protected by a sprinkler system and subject to a maximum permissible limit of 460m² 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 381.3m², 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 28 applications for 'Shop and Services'/'Showroom' use on G/F of the same building were approved with condition(s) by the Committee (**Appendix III** 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 22.9.2025, 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 V**.

- 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 31.7.2023 and Supplementary Information received on 7.8.2023
Appendix Ia	FI 1 received on 18.8.2023
Appendix II	Previous Applications
Appendix III	Similar Applications
Appendix IV	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-2a	Ground Floor Plan of Block C, Hong Kong Industrial Centre
Plans A-3 to A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2023**