

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K9/276

- Applicant** : Team Happy Corporation Limited
- Premises** : Workshop B (Portion), G/F, Eldex Industrial Building, No. 21 Ma Tau Wai Road, Hung Hom, Kowloon
- Total Floor Area of Premises** : about 229.9 m²
- Lease** : (a) Section B of Kowloon Marine Lot No. 40 governed by Government Lease subject to a lease term of 75 years renewable for 75 years commencing on 15.9.1987
(b) Subject to an offensive trade restriction
- Plan** : Draft Hung Hom Outline Zoning Plan (OZP) No. S/K9/27
- Zoning** : “Other Specified Uses” annotated “Business” (“OU(B)”) [Restricted to a maximum plot ratio of 12 and a maximum building height of 120mPD or the plot ratio and the height of the existing building, whichever is the greater]
- Application** : Proposed Shop and Services

1. The Proposal

- 1.1 The applicant seeks planning permission to use Workshop B (Portion), G/F, Eldex Industrial Building, No. 21 Ma Tau Wai Road, Hung Hom (the Premises) for the proposed ‘Shop and Services’. The Premises is located within an industrial building (IB) falling within an area zoned “OU(B)” on the draft Hung Hom OZP No. S/K9/27 (**Plan A-1**). According to Schedule II of the Notes of the OZP for “OU(B)” zone, ‘Shop and Services’ is a Column 2 use for an industrial or industrial-office (I-O) building and planning permission from the Town Planning Board (the Board) is required. Layout plans showing the Premises are shown in **Drawing A-1** and **A-2**.
- 1.2 According to the submission, the current use of the Premises is partially used as retail shop and partially vacant. However, according to recent site inspection, the Premises is currently occupied by two retail shops without planning permission.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 21.7.2021 (Appendix I)
 - (b) Further Information (FI) vide letter received on 26.8.2021 enclosing responses to departmental comments and layout plan showing vehicular access, (Appendix Ia)

parking and loading/unloading(L/UL) of the Building.

(All FIs are accepted and exempted from publication requirement)

2. Justifications from the Applicant

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

- (a) The use will be considered compatible to the surrounding area as the subject building is surrounded with residential, government, institution and community (GIC) uses, industrial or industrial-office uses. Retail shops are commonly found at the ground floor of the IBs in the neighbourhood.
- (b) The proposed use is in line with the planning intention of “OU(B)” zone which is intended primarily for general business uses. The proposed use is a non-polluting commercial use which also contributes to the progressive transformation and upgrading of the area.
- (c) The proposed ‘Shop and Services’ is a response to the high demand of commercial/ retail uses at the locality. Many commercial activities are actively operating in the vicinity of the Premises, particularly at the ground floor of industrial/ I-O buildings along Ma Tau Wai Road and Man Yu Street.
- (d) The proposed floor area of the ‘Shop and Services’ is 229.9 m² which is within the 230m² permissible floor area of the aggregate commercial floor area on ground floor in existing industrial/I-O buildings as set out in Town Planning Board Guidelines No. 22D.
- (e) The Premises is highly accessible within 5 minutes walking distance from the MTR station. The locality is well served by road networks and public transport facilities are also available. The proposed use would not create any adverse traffic impact to the existing road.

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 TPB 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 G/F of an existing industrial/I-O building with and without sprinkler systems should 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 buildings. 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 (HKPSG), and all other statutory or non-statutory requirements of relevant Government departments must also be met.

5. Previous Applications

- 5.1 There is no previous application covering the Premises.

6. Similar Applications

- 6.1 There are 11 similar applications for 'Shop and Services' use within the "OU(B)" zone on the draft Hung Hom OZP No. S/K9/27 between 2004 and 2017 (**Plan A-1**). All applications were approved by the Committee with or without conditions. Subsequently, three applications (Nos. A/K9/211, A/K9/218 and A/K9/266) were revoked on 20.4.2007, 13.8.2008 and 25.5.2017 respectively, due to non-compliance with approval conditions.
- 6.2 As for the subject IB, the Committee has considered and approved two applications on G/F for ~~'Shop and Services'~~ **'Bank'** uses in 1988 and 1999. These premises are currently used as banks (**Plan A-2**). Details of which are shown in the table below.

Application No.	Unit No.	Applied Uses	Floor Area (m ²)	Date of Decision	Decision
Uses applicable for the maximum permissible limit of 230m²					
Nil					
Total Approved Commercial Floor Area: 0 m²					
Uses <u>not</u> applicable for the maximum permissible limit of 230m² ^[1]					
A/K9/33 ^[2]	Workshop B (Portion)	Shop and Services Bank	434m ²	13.5.1988	Approved/ Agreed (on review)
A/K9/137 ^[2]	Workshop A	Shop and Services Bank	873m ²	22.10.1999	Approved/ Agreed

[1] As set out in TPB PG-No.22D, the limits on commercial floor area do not apply to bank, fast food counter, electrical shop, local provisions store and showroom in connection with the main industrial use.

[2] The planning application was approved when the subject IB was zoned "Industrial".

6.3 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. Should the application be approved, the resultant total aggregate commercial floor area would be 229.9m² which is within the maximum permissible limit.

7. The Premises and its Surrounding Areas

(Plans A-1 to A-3 and photos on Plans A-4 and A-5)

7.1 The Premises:

- (a) occupies G/F of Eldex Industrial Building (**Drawing A-1**), and is currently used for the applied use without planning permission; and
- (b) has its own entrance fronting Ma Tau Wai Road and is separated from the entrance to other floors of the IB. (**Drawing A-1**)

7.2 The subject building:

- (a) is a 15-storey IB built in 1972; and
- (b) has the following existing uses:

Floor	Main Uses
G/F	Application Premises at G/F (Shop and Services), Bank ^[3] , Licensed Factory Canteen, lift lobby, L/UL area (Plan A-3)
1/F to 12/F	Office, outlet (sportswear), warehouse, storage, workshop, showroom, religious institution, factory (watch-making)

^[3] Covered by planning permissions No. A/K9/33 and 137.

7.3 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) the site is located at the southern part of the business area in Hung Hom, Industrial /I-O buildings are located to its immediate east. G/F of the nearby buildings are mainly used as retail shops;
- (b) to the north across Man Yu Street and Fat Kwong Street flyover is a residential building named Loong King Mansion with a ground floor shopping arcade.
- (c) to the west across Ma Tau Wai Road is the subsidized housing estate Ka Wai Chuen of the Hong Kong Housing Society.
- (d) to the south across Tai Wan Road are SKH Holy Carpenter Secondary School, Hung Hom Municipal Services Building, Tai Wan Road Playground and Hung Hom Estate Phase 1; and
- (e) the area is well-served by various modes of public transport including bus and mini-bus services along Ma Tau Wai 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 industrial-office buildings.

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Premises falls within Section B of KML No.40, which is subject to the restriction on offensive trade.
- (b) The proposed ‘Shop and Services’ use does not conflict with the lease conditions provided no offensive trades including provision and/or sale of food or beverages are carried out at the Premises. If the planning application is approved by the Board and provision and/or sale of food or beverage is proposed, the owner of the Premises is required to apply to Lands Department for an offensive trade licence to implement the proposal. Such application, if received will be

considered by Lands Department acting in the capacity as a landlord at its sole discretion and if such application is approved, it will be subject to such terms and conditions including the payment of fee as may be imposed by LandsD.

Fire Safety

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

- (a) No objection in-principle to the application subject to:
 - (i) Fire service installation and water supplies for fire fighting 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.
- (b) The Building is not fully protected with a sprinkler system so that the maximum permissible aggregated commercial floor area on G/F is 230m² in accordance with TPB PG-No. 22D. The applied use should be counted up to the aggregated commercial floor area.
- (c) Regarding matters related to fire resisting construction of the Premises, the applicant is reminded to comply with the “Code of Practice for Fire Safety in Buildings 2011” which is administered by the Building Authority (BA).
- (d) The applicant’s attention is drawn to 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.

Building Matters

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

- (a) No objection in-principle to the application.
- (b) All building works/ change in use should be in compliance with the Building Ordinance (BO) and its allied regulations.
- (c) The applicant is required to appoint an Authorised Person (AP) and, where necessary, a registered structural engineer and/or a registered geotechnical engineer to prepare and submit building plans for approval by the Buildings Department (BD), 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.
- (d) Adequate means of escape should be provided in accordance with Building (Planning) Regulation (B(P)R) 41(1) and the Code of Practice for Fire Safety in Buildings 2011 (FS Code).
- (e) The Premises should be separated from the remaining portion of the building by fire barriers of adequate fire resistance rating pursuant to Building (Construction) Regulation 35 and the FS Code.
- (f) Access and facilities for persons with a disability should be provided

in accordance with B(P)R 72 and Design Manual: Barrier Free Access 2008.

- (g) Adequate sanitary fitments should be provided to the premises in accordance with the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations.
- (h) For unauthorised building works (UBW) erected on private land/buildings, enforcement action may be taken by the 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 work or UBW on the application site under the BO.
- (i) The applicant's attention is drawn to Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers APP-47 that the Building Authority has no powers to give retrospective approval or consent for any UBW.
- (j) If the proposed use under application is subject to the issue of a licence, please be reminded that any existing structures on the application site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.

9.2 The following Government departments have no objection to/no comments on the application:

- (a) Chief Engineer/Mainland South, Drainage Services Department;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Commissioner for Transport;
- (d) Director of Food and Environmental Hygiene;
- (e) Director of Environmental Protection;
- (f) Commissioner of Police; and
- (g) District Officer (~~Kwan Tong~~ **Kowloon City**), Home Affairs Department.

10. Public Comments Received During Statutory Publication Period

On 30.7.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 20.8.2021, one public comment from the general public was received indicating support of the application on the ground that Hung Hom district is undergoing a transformation into a commercial and ancillary industrial district, and it is considered that certain restrictions such as traffic control measures and maximum capacity in eating place should be imposed. Details of the comment are at **Appendix II**.

11. Planning Considerations and Assessments

11.1 The application is to seek planning permission for proposed 'Shop and Services' use at the Premises, which is currently used as retail shops without planning permission. The planning intention of the "OU(B)" zone is intended for general business uses. It allows greater flexibility in the use of the existing industrial or I-O buildings provided that the proposed use would not induce adverse fire safety and environmental impacts. The applied use, as retail shop at the Premises, is

considered generally in line with the planning intention.

- 11.2 The district is gradually transforming from industrial to commercial uses with similar applications for 'Shop and Services' use approved for the G/F units of other industrial and I-O buildings in the vicinity of the Premises. The applied use is considered compatible with the changing land use character of the area.
- 11.3 The proposed use at the Premises complies with TPB PG-No. 22D in that it would not induce adverse fire safety and environmental impacts on the developments within the subject IB and the adjacent areas. Relevant Government departments consulted including C for T, CBS/K, BD and D of FS have no objection to/no adverse comment on the application.
- 11.4 As advised by D of FS, the subject building is not fully protected with a sprinkler system and is subject to a maximum permissible limit of 230m² for aggregated commercial floor area at G/F. If the application is approved, the total approved commercial floor area on G/F of the subject building is 229.9m², which is within the maximum permissible limit of 230m². In this regard, D of FS has no objection to the application subject to an approval condition on the submission and implementation of fire safety measures as detailed in paragraph 12(a) below.
- 11.5 The supporting public comment is noted. With regard to the comment relating to the traffic aspect, C for T has no adverse comment on the application as loading and unloading (L/UL) activities will be carried out at the L/UL bay within G/F of the premises. Regarding the comment to limit the capacity of eating place, the application is for 'Shop and Services' use which does not cover eating place use.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account of the public comments mentioned in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, no time clause on commencement is proposed as the 'Shop and Services' use under application is already in operation. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval conditions

- (a) the submission and implementation of fire services installations within six months to the satisfaction of the Director of Fire Services or of the Board by 10.3.2022; and
- (b) if the above planning condition (a) 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**.

- 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 to 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 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 7.1.2021
Appendix Ia	FI vide letter received on 26.8.2021
Appendix II	Public Comments received during the statutory publication periods
Appendix III	Recommended Advisory Clauses
Drawing A-1	Location of the Premises on the building plan as submitted by the Applicant
Drawing A-2	Floor Plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Existing Uses on the Ground Floor of Eldex Industrial Building
Plans A-4 and A-5	Site photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**