

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TW/533

- Applicant** : Billion Sincere Development Limited represented by Innovative Development Company
- Premises** : Portion A of Workshop 17, G/F, Po Yip Building, 62-70 Texaco Road and 391-407 Sha Tsui Road, Tsuen Wan
- Total Floor Area of the Premises** : About 125 m²
- Lease** : Tsuen Wan Town Lot (TWTL) 249 and TWTL 250
- (a) Governed by New Grant Nos. 5579 and 5580 respectively both with lease term expiring on 30.6.2047; and
- (b) for industrial or godown purposes or both excluding any offensive trade
- Plan** : Approved Tsuen Wan Outline Zoning Plan (OZP) No. S/TW/35
- Zoning** : “Other Specified Uses” annotated “Business” (“OU(B)”)
- (a) maximum plot ratio (PR) of 9.5; and
- (b) maximum building height (BH) of 100 metres above Principal Datum (mPD)
- Application** : Shop and Services and Wholesale Trade

1. The Proposal

- 1.1 The applicant seeks planning permission to regularise the ‘Shop and Services’ and ‘Wholesale Trade’ uses at Portion A of Workshop 17 located on G/F (the Premises) of an existing industrial building (the subject building) (**Plans A-1 and A-2**). The subject building falls within an area zoned “OU(B)” on the approved Tsuen Wan OZP No. S/TW/35. According to Schedule II of the Notes of the OZP for the “OU(B)” zone applicable to industrial or industrial-office (I-O) building, ‘Wholesale Trade’ use and ‘Shop and Services’ use other than service trades and motor vehicle showroom on G/F of an industrial building require planning permission from the Town Planning Board (the Board).

- 1.2 The Premises has a total area of about 125m² and is currently occupied by a seafood shop without valid planning permission. It is accessible directly from Tsuen Wing Street. Its floor plans submitted by the applicant are at **Drawings A-1 and A-2**.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form and Supplementary Information (**Appendix I**) received on 31.5.2022 and 9.6.2022
 - (b) Further Information (FI) received on 11.7.2022 providing (**Appendix Ia**) clarifications on the application

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form and FI at **Appendices I and Ia**. They can be summarized as follows:

- (a) the application intends to provide a shop for retail and wholesale trade of seafood. Approval of the application will create job opportunity in the area;
- (b) the Premises has direct frontage to Tsuen Wing Street and is equipped with sprinkler system. The applied use will not cause adverse fire safety impact; and
- (c) the existing public footpath will not be affected by the applied use and the loading/unloading activities will take place within the parking lot of the subject building.

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 Use/Development within “OU(B)” Zone (TPB PG-No. 22D), which was promulgated in September 2007, is relevant to the application 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. 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 subject Premises.

6. **Similar Applications**

- 6.1 Within the subject building, there is no similar planning application for ‘Shop and Services’ and/or ‘Wholesale Trade’ uses approved by the Metro Planning Committee (the Committee). If the application is approved, the aggregated commercial floor areas approved by the Committee on G/F of the subject industrial building will be 125m², which is within the maximum permissible limit.
- 6.2 There are a total of 12 similar applications for ‘Shop and Services’ use in industrial or I-O buildings within the “OU(B)” zones on the Tsuen Wan OZP (**Plan A-1**). All these applications were located on G/F of the respective industrial or I-O buildings. Among these applications, 11 of them were approved by the Committee with conditions, except Application No. A/TW/442 involving three G/F premises of an industrial building, namely One Midtown, which was partially approved by the Committee for two premises, while the remaining premises without a separate means of escape was rejected. Subsequently, three among the 12 similar applications (i.e. Nos. A/TW/442, A/TW/457 and A/TW/460) were revoked on 23.5.2014, 27.12.2014 and 22.2.2015 respectively, due to non-compliance of approval condition on provision of fire safety measures. Details of these applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.
- 6.3 There is no similar application for ‘Wholesale Trade’ use within the “OU(B) zones on the Tsuen Wan OZP.

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 Portion A of Workshop 17 on G/F of the existing industrial building, namely Po Yip Building, with direct frontage to Tsuen Wing Street; and
- (b) is currently occupied by a seafood shop without valid planning permission.

7.2 The subject building:

- (a) is a 16-storey industrial building completed in 1981. Parking facilities are provided on 1/F to 3/F with vehicular access from Tsuen Wing Street;
- (b) is well served by various modes of public transport including bus and public light bus. MTR Tai Wo Hau Station is about 370m to the northeast;
- (c) is equipped with a sprinkler system; and
- (d) the current uses by floor are summarized as follows:

Floor	Current Uses
G/F	the Premises , vacant units, canteens*, warehouse*, offices*, recyclable collection centre*, showroom [^] , workshops for vehicle repair [@] , car wash services [@] and hardware* (Plan A-3)
1/F to 3/F	Carpark
4/F to 15/F	Industrial-related offices/trading firms, warehouses and workshops

* According to Schedule II of the Notes of the OZP for the “OU(B)” zone applicable to industrial or I-O building, these uses are always permitted.

[^] Ancillary showroom is a column 2 use, referring to showroom use of greater than 20% of the total usable floor area of an industrial firm in the same premises or building. There is no record of planning approval granted for these uses.

[@]While vehicular repair workshop is a Column 2 use under the prevailing “OU(B)” zone, it was always permitted under the previous “Industrial” zone. According to the Board’s Definition of Terms, car wash service is subsumed under ‘Vehicle Repair Workshop’.

7.3 The surrounding areas have the following characteristics:

- (a) to the north across Tsuen Wing Street are mainly residential developments with commercial uses such as shop and services on lower non-domestic floors, namely East Asia Gardens and Wealthy Garden;
- (b) to the northwest along Tsuen Wing Street is Panda Hotel;
- (c) to the east across Texaco Road are the Tai Wo Hau Estate and Sheung Man Court;

- (d) to the immediate west are the Tsuen Wing Street Playground and an industrial building namely Young Ya Industrial Building; and
- (e) to the south across Sha Tsui Road are Sheung Chui Court and some industrial buildings such as Hing Yip Centre and Saving Logistics Centre.

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 summarized as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer/Tsuen Wan and Kwai Tsing, Lands Department (DLO/TW&KT, LandsD):

- (a) the Premises is situated on G/F of Po Yip Building, which falls within TWTL 249 and TWTL 250 (collectively hereinafter referred to as “the Lots”). TWTL 249 and TWTL 250 are governed by New Grant Nos. 5579 and 5580 respectively both with the lease term expiring on 30.6.2047. The Lots shall only be used for industrial or godown purposes or both excluding any offensive trade. No building or buildings shall be erected on the Lots except a factory or factories or a warehouse or warehouses or both, ancillary offices and such canteen and other welfare facilities (but excluding residential quarters) for workmen employed on the Lots as may be necessary and also such quarters as may be required for watchmen or caretakers who, in the opinion of the Commissioner for Labour, are essential to the safety and security of the buildings; and
- (b) the ‘Shop and Services’ and ‘Wholesale Trade’ uses are not permissible under the lease conditions. If planning approval is granted by the Board, the owner of the Premises will need to apply to LandsD for a temporary waiver for implementation of the ‘Shop and Services’ and ‘Wholesale Trade’ uses. The applied uses will only be considered upon the receipt of the valid application from the owner of the Premises. There is no guarantee that the application, if received by LandsD, will be approved and his office reserves 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 would be subject to such

terms and conditions as the Government shall deem fit to do so, including, among others, charging of waiver fee and administrative fee.

Fire Safety

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

- (a) no objection to the application subject to:
 - (i) fire service installations and water supplies for firefighting being provided to the satisfaction of D of FS. Detailed fire service requirements will be formulated upon receipt of formal submission of general building plans;
 - (ii) means of escape of the Premises is completely separated from the industrial portion of the building; and
- (b) the building is protected with a sprinkler system so that the maximum permissible aggregated commercial floor area on G/F is 460m² in accordance with TPB PG-No. 22D. The applied uses should be counted up to the aggregated commercial floor area.

Building Matters

9.1.3 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) no objection to the application; and
- (b) other detailed comments are at **Appendix III**.

Environment

9.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) no objection to the application;
- (b) there is no noise complaint against the existing uses in the recent 3 years complaint record; and
- (c) the applicant is reminded to comply with the environmental pollution control ordinances, including the Water Pollution Control Ordinance, during the operation of the subject uses.

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

- (a) Commissioner for Transport (C for T);
- (b) Chief Highway Engineer/New Territories West, Highways Department;
- (c) Commissioner of Police;

- (d) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (e) Chief Engineer/Construction, Water Supplies Department(CE/C, WSD);
- (f) Director of Food and Environmental Hygiene;
- (g) District Officer (Tsuen Wan), Home Affairs Department;
- (h) Project Manager/New Territories North and West, Civil Engineering and Development Department; and
- (i) Director-General of Trade and Industry (DG of TI).

10. Public Comment Received During Statutory Publication Period

During the statutory public inspection period, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The application is to seek planning permission to regularise the ‘Shop and Services’ and ‘Wholesale Trade’ uses at the Premises located on G/F of an existing industrial building in the “OU(B)” zone (**Plan A-1**). The Premises is currently occupied by a seafood shop without valid 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 uses would not induce adverse fire safety and environmental impacts. The ‘Shop and Services’ and ‘Wholesale Trade’ uses under application are considered generally in line with this planning intention.
- 11.2 The Premises is located to the south of some residential developments where commercial uses such as shop and services are commonly found on their lower non-domestic floors. The uses under the application are considered not incompatible with the surrounding area nor the other uses in the same building.
- 11.3 The Premises on G/F with direct shop frontage to the public road is separated from other parts of the building. The applied uses in general comply with the Town Planning Board Guidelines for Development within the “OU(B)” Zone (TPB PG-No. 22D) in that it would not induce adverse fire safety, traffic, environmental and infrastructural impacts on the developments within the subject building and to the adjacent areas. Relevant Government departments including D of FS, CBS/NTW of BD, C for T, DEP, CE/MS of DSD and CE/C of WSD have no objection to or no adverse comments on the application.
- 11.4 As confirmed by D of FS, the subject industrial building is protected with a sprinkler system so that the maximum permissible aggregated commercial floor area on G/F is 460m² in accordance with TPB PG-No. 22D. Should the Committee approve the subject application, the aggregated commercial floor area approved by the Committee on the G/F of the subject industrial building will be 125m², which is within the maximum permissible limit.
- 11.5 A total of 12 similar applications for ‘Shop and Services’ use in 13 G/F premises in industrial or I-O buildings within the “OU(B)” zones on the Tsuen Wan OZP were approved (Paragraph 6.2 and **Plan A-1** refer). As there is no change in

planning circumstances, approval of the application is consistent with the previous decisions of the Committee on similar applications.

11.6 No public comment on the application was received.

12. Planning Department's Views

12.1 Based on the assessment made in paragraph 11 above, 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' and 'Wholesale Trade' uses under application are already in operation. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval conditions

- (a) the provision of fire services installations and water supplies for firefighting and separate means of escape within 6 months from the date of the approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 29.1.2023; and
- (b) if the above planning condition was not complied by the specified date, the approval hereby given should 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 and Supplementary Information received on 31.5.2022 and 9.6.2022
Appendix Ia	FI received on 11.7.2022
Appendix II	Similar applications
Appendix III	Detailed departmental comments
Appendix IV	Recommended advisory clauses
Drawing A-1	Location plan of the Premises
Drawing A-2	Ground floor plan of the subject industrial building
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Existing uses on the G/F of the subject industrial building
Plans A-4 and A-5	Site photos

**PLANNING DEPARTMENT
JULY 2022**