

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

**APPLICATION NO. A/TM/559**

|                           |  |
|---------------------------|--|
| <b><u>Applicant</u></b>   | : All Sharp Limited  |
| <b><u>Premises</u></b>    | : Workshop Unit 1A on G/F, Hang Wai Industrial Centre, 6 Kin Tai Street, Tuen Mun, New Territories   |
| <b><u>Floor Area</u></b>  | : About 33.67m <sup>2</sup>  |
| <b><u>Lease</u></b>       | : Tuen Mun Town Lot (TMTL) No. 114 held under New Grant No. 2232<br><br>- Restricted to industrial and/or godown purposes (excluding offensive trade)  |
| <b><u>Plan</u></b>        | : Approved Tuen Mun Outline Zoning Plan (OZP) No. S/TM/35  |
| <b><u>Zoning</u></b>      | : “Other Specified Uses” annotated “Business” (“OU(B)”) <i>[Restricted to a maximum plot ratio (PR) of 9.5 (including not more than a PR of 1.0 for ‘Shop and Services’ and ‘Eating Place’) and a maximum building height (BH) of 100mPD, or the PR/BH of the existing building, whichever is the greater]</i> |
| <b><u>Application</u></b> | : Shop and Services  |

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Shop and Services’ use. The Premises is located on the ground floor of an existing industrial building known as Hang Wai Industrial Centre (the subject building), which falls within an area zoned “OU(B)” on the approved Tuen Mun OZP No. S/TM/35. (**Plans A-1 and A-2**). According to Schedule II of the Notes for the “OU(B)” zone applicable to industrial or industrial-office (I-O) building, ‘Shop and Services (not elsewhere specified) (ground floor only except Ancillary Showroom which may be permitted on any floor)’ use requires planning permission from the Town Planning Board (the Board). The Premises is being used for a fast food shop and a real estate agency without valid planning permission.
- 1.2 The Premises (in whole or in part) is the subject of five previous applications. The last application (No. A/TM/393) for shop and services (fast food shop and real estate agency) was approved with conditions on a temporary basis for three years by the Rural and New Town Planning Committee (the Committee) of the

Board on 5.3.2010. The approval condition in relation to the submission and implementation of fire service installations was complied with. The planning permission lapsed on 6.3.2013.

- 1.3 The Premises occupies Unit 1A on the ground floor of the subject building with a total area of 33.67m<sup>2</sup>. As shown on the floor plan on **Plan A-2a**, the Premises has direct frontage at Kin On Street. The layout plans showing the Premises and the existing uses submitted by the applicant are attached in **Drawings A-1 and A-2**. According to the applicant, the Premises may be used for other 'Shop and Services' uses besides fast food shop and real estate agency.
- 1.4 In support of the application, the applicant has submitted the following documents:
  - (a) Application form with attachments received on 30.12.2020 (**Appendix I**)
  - (b) Supplementary information received on 6.1.2021 providing plans for the current application (**Appendices Ia(1) and Ia(2)**)
  - (c) Further information (FI) received on 28 and 29.1.2021 providing responses to comments of the District Lands Officer/ Tuen Mun (DLO/TM) and location and floor plans of the Premises (**Appendices Ib(1) and Ib(2)**)
  - (d) FI received on 2.2.2021 providing responses to comments of the Commissioner for Transport (C for T) (**Appendix Ic**)
  - (e) FI received on 10.2.2021 providing responses to comments of the Director of Fire Services (D of FS) (**Appendix Id**)
  - (f) FI received on 17.2.2021 providing responses to comments of D of FS (**Appendix Ie**)
  - (g) FI received on 17.3.2021 providing responses to comments of D of FS (**Appendix If**)  
*[(c) to (g) above exempted from publication and recounting requirements]*
- 1.5 On 26.2.2021, the Committee agreed to defer making a decision on the application for two months as requested by the applicant in order to allow time for preparation of FI in relation to comments of D of FS. With the FI received on 17.3.2021 (**Appendix If**), the application is scheduled for consideration by the Committee at this meeting.

## **2. Justifications from the Applicant**

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

- (a) Approval of the current application is in line with the planning intention. After the approval of the last application, the zoning of the Premises has been changed from “Industrial” to “OU(B)”. This reflects the transformation of the subject building and its surrounding area from industrial to commercial use.
- (b) Given the rejuvenation of the neighbourhood area (including the announcement by Sun Hung Kai Properties to redevelop the Site at 1 Kin Fung Circuit into offices, shop and services in November 2020), there will be more workers in the area and thus demand for shop and services will be increased.
- (c) Since the approval of the last application 10 years ago, both the fast food shop and real estate agency have served the community continuously without any complaints or disturbance. The fast food shop and real estate agency provided employment and business opportunities in the area. The relevant departments, including Fire Services Department (FSD), Food and Environmental Hygiene Department (FEHD) and Lands Department (LandsD) were satisfied with the licence renewal and/or certifications throughout the past 10 years.
- (d) The real estate agency occupies 7.2m<sup>2</sup> only. There are not many customers inside the Premises. As the shop is small, pedestrian traffic is not high and there is direct access to Kin On Street, the fire hazard is midnimal.
- (e) The fast food shop operates take-away services only and provides cheap food for lower class. Under the current economic situation and the high living cost, it is beneficial to provide cheap and affordable food to the local community in a convenient manner.

## **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) is 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 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 not exceed 460m<sup>2</sup> and 230m<sup>2</sup> 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. 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 (HKPSG), and all other statutory or non-statutory requirements of relevant Government departments must also be met.

## 5. **Previous Applications**

- 5.1 The Premises (in whole or in part) is the subject of five previous applications (No. A/TM/107, 108, 197, 269 and 393) for various eating place and shop and services uses submitted by different applicants (**Plans A-1 and A-2b**). The subject building was rezoned from “Industrial” (“I”) to “OU(B)” in 2011 and all applications were considered by the Committee/Board when the subject building was zoned “I” on the OZP. Details of these applications are in **Appendix II**.
- 5.2 Application No. A/TM/107 at Units 1A and 1B for restaurant use was rejected by the Board on 10.5.1991 on grounds of high fire risk and no justification for the loss of industrial floor space. Application No. A/TM/108 at Unit 1A for selling/exchange/rental of taxis and real estate agency was rejected on review by the Board on 27.9.1991 on grounds that the office was used for general commercial activities not directly related to any industrial operations in the building or the area, and there was no justification for the proposed uses not to be accommodated in a commercial building.
- 5.3 Applications No. A/TM/197 and 269 involving only portion of Unit 1A for local provision store and convenience store/ cake shop respectively were approved by the Committee on 23.6.1995 and 27.10.2000 on grounds of general compliance with the Board’s guideline for commercial uses in industrial building; not adversely reduce the GFA for industrial use and providing convenience to the industrial workers. Application No. A/TM/393 at Unit 1A for shop and services (fast food shop and real estate agency) was approved with conditions on a temporary basis for three years by the Committee on 5.3.2010 mainly on grounds that it is in general compliance with the Board’s guideline for commercial uses in industrial building, it has no adverse traffic and fire safety impact, and the applied use is not incompatible with the adjoining units.

The planning permission lapsed on 6.3.2013.

## 6. Similar Applications

- 6.1 The Committee/Board has considered 36 similar applications for shop and services use including retail shop, local provision store, real estate agency and convenience store at the ground floor units of the subject building. Amongst them, 29 applications were considered when the subject building was zoned “Industrial” (“I”) on the Tuen Mun OZP and the remaining seven were considered when the subject building was zoned “OU(B)”.
- 6.2 Amongst the 36 applications, 29 applications were approved by the Committee, and seven were rejected by the Committee or the Board. Amongst the seven applications which were considered when the subject building was zoned “OU(B)”, two applications were approved by the Committee and five were rejected by the Committee or the Board mainly on the ground of fire safety. Details of these similar applications are at **Appendix III**.
- 6.3 Amongst the 29 approved applications, only five of them are still valid and should be counted for commercial uses subject to permissible limit of 460m<sup>2</sup> in the subject industrial building with sprinkler system. Details of these applications are as follows:

| Application No.  | Application Premises (G/F) | Proposed Use/ Development                                       | Floor Area (about) (m <sup>2</sup> ) | Date of Consideration | Decision                 |
|--|----------------------------|---|--------------------------------------|-----------------------|--------------------------|
| <b>Uses applicable for the maximum permissible limit of 460m<sup>2</sup><sup>[1]</sup></b> |                            |   |                                      |                       |                          |
| A/TM/78 <sup>[2]</sup>   | 13-13A                     | Retailing of Vehicle Spare Parts                                | 33                                   | 27.1.1989             | Approved                 |
| A/TM/79 <sup>[2]</sup>   | 52                         | Wholesaling and retailing of packaging materials and stationery | 32                                   | 27.1.1989             | Approved                 |
| A/TM/81 <sup>[2]</sup>   | 121                        | Wholesaling and retailing of packaging materials and stationery | 28                                   | 27.1.1989             | Approved                 |
| A/TM/146 <sup>[2]</sup>  | 1B                         | Retailing of packaging materials and stationery                 | 38                                   | 19.6.1992             | Approved with conditions |
| A/TM/155 <sup>[2]</sup>  | 3 (portion)                | Retailing of plastic bags and stationery                        | 12                                   | 23.10.1992            | Approved                 |
| <b>Total Approved Floor Area: 143m<sup>2</sup><sup>[3]</sup></b>                           |                            |   |                                      |                       |                          |

<sup>[1]</sup> As set out in TPB PG No. 22D, the 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.

<sup>[2]</sup> These applications were approved when the subject building was still under “I” zone on the OZP

<sup>[3]</sup> The total approved floor area of 143m<sup>2</sup> has excluded the floor areas within the overlapping premises and cases of which planning permission have lapsed or been revoked.

- 6.4 According to TPB PG-No. 22D, the applied ‘Shop and Services’ use under this application is subject to a maximum permissible limit of 460m<sup>2</sup>. If the

application is approved, the aggregate commercial floor areas approved on G/F of the subject industrial building will be 176.67m<sup>2</sup>, 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-4a to A-4b)**

7.1 The Premises is:

- (a) situated on the ground floor of an existing 20-storey industrial building known as Hang Wai Industrial Centre;
- (b) currently used for a fast food shop and a real estate agency without valid planning permission; and
- (c) directly accessible from Kin On Street.

7.2 The existing main uses of the subject building by floors are summarised below :

| Floor       | Main Uses   |
|-------------|---|
| G/F         | Eating places <sup>[1]</sup> , storage, shops (real estate agency, logistics company, printing company, safety equipment retailing etc.), offices, workshops                            |
| 1/F         | Shops <sup>[1]</sup> , workshops and storage  |
| 2/F         | Carpark   |
| 3/F to 19/F | Offices (for trading company, printing company, logistics company, computer company and design company), workshops (for metal, food factory etc.), wholesale <sup>[1]</sup> and storage |

<sup>[1]</sup> No record of planning approval granted for these eating place, shops and wholesale uses

7.3 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) the subject building is located at the southern part of Tuen Mun Industrial Area 9 which is predominately occupied by industrial buildings;
- (b) to its west and south are industrial buildings and another industrial area (Tuen Mun Industrial Area 12) respectively;
- (c) to its north and northeast is Kowloon Motor Bus (KMB) Overhaul Centre and Bus Depot; to its northwest is a commercial building, and to its east are fire station and ambulance depot; and
- (d) the West Rail Tuen Mun Station is situated about 400m to its east.

**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 summarised as follows:

### **Land Administration**

9.1.1 Comments of the DLO/TM, Lands Department (DLO/TM, LandsD):

- (a) The Premises are located at the ground floor of Hang Wai Industrial Building which is erected on Tuen Mun Town Lot No. 114 ('the Lot') and is held under New Grant No. 2232. The Lot is subject to the following salient lease conditions:
  - (i) User: Industrial and/or godown purposes (excluding any offensive trade);
  - (ii) Type of Building: A factory or factories and/or a warehouse or warehouses, ancillary offices, and watchmen's or caretakers' quarters; and
  - (iii) Site coverage and plot ratio: Maximum site coverage of 80% and maximum plot ratio of 9.5 for building height over 100ft but not exceeding 120ft.
- (b) The proposed 'Shop and Services' use at the subject Premises does not comply with the lease conditions. If planning approval is given by the Board, the applicant will need to apply to LandsD for a temporary waiver for the proposal. The proposal will only be considered upon receipt of formal application from the registered owner. There is no guarantee that the applicant, if received by LandsD, will be approved and he reserves his comments 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, amongst others, charging of waiver fee and administrative fee.
- (c) Notwithstanding the above, in the event that any breach of the lease conditions or any change of use of the Premises without any prior approval from LandsD is detected, the Government reserves the right to take any enforcement action as may be considered appropriate.

### **Fire Safety**

9.1.2 Comments of D of FS:

He has no objection in principle to the application subject to the

following:

- (a) Fire service installations and equipment being provided to the satisfaction of his Department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans;
- (b) the means of escape of the Premises is totally separated from the industrial portion of the subject building;
- (c) the building is protected with a sprinkler system so that the maximum permissible aggregated commercial floor area on G/F is 460m<sup>2</sup> in accordance with TPB PG-No.22D. The applied use should be counted up to the aggregated commercial floor area;
- (d) regarding the 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' which is administered by the Building Authority; and
- (e) applicant's attention should be drawn to the 'Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises'.

### **Traffic**

#### 9.1.3 Comments of C for T:

He has no comment on the application provided that the parking provision at Hang Wai Industrial Centre can cater for the loading/unloading and parking demand generated by the proposed use, and the proposed use will not generate/ attract additional trips to/from the subject industrial building.

### **Environment**

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

- (a) He has no objection to the application.
- (b) As the Premises is located within an industrial building in an established industrial zone and in small scale, adverse environmental impact associated with the use is not anticipated.

### **Drainage and Sewerage**

#### 9.1.5 Comments of the Chief Engineer/ Mainland North, Drainage Services Department (CE/MN of DSD):

On the understanding that there will be no additional area receiving stormwater from the Premises, he has no comment on the application from public drainage viewpoint.



### **Building Matters**

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

- (a) He has no-principle objection under the Buildings Ordinance (BO) to the proposed use provided that adequate fire protection/ separate between uses is installed.
- (b) Before any new building works are to be carried out on the Premises, prior approval and consent of the Buildings Authority should be obtained, otherwise they are unauthorised building works. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (c) Detailed comments under the BO will be provided at the building plan submission stage.

### **Others**

#### 9.1.7 Comments of the Director-General of Trade and Industry (DG of TI):

He has no comment on the application given that the planning intention of the “OU(B)” zone is primarily for general business uses.

#### 9.1.8 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) For the operation of any types of food business, relevant food licence(s) and/or permit(s) should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132).
- (b) If the proposal involves any commercial/trading activities, its state should not as to be a nuisance or injurious or dangerous to health and surrounding environment. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

### **District Officer's Comments**

#### 9.1.9 Comments of the District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD):

She had distributed consultation letters to the locals concerned and understood that they would provide their comments (if any) to the Board direct.

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

- (a) Chief Highway Engineer/ New Territories West, Highways Department (CHE/ NTW, HyD);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Commissioner of Police (C of P); and
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD)

## **10. Public Comments Received During Statutory Publication Period**

On 12.1.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 2.2.2021, no public comment was received.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for 'Shop and Services' use at the Premises within an existing industrial building zoned "OU(B)" on the OZP. The planning intention of "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 proposed use would not induce adverse fire safety and environmental impacts. The proposed 'Shop and Services' use at the Premises is considered generally in line with the planning intention of the "OU(B)" zone.
- 11.2 The proposed 'Shop and Services' use on part of the ground floor of an existing industrial building is considered not incompatible with other uses within the same building which mainly comprises shops and services, eating places, and workshops on the ground floor and industrial-related offices, warehouses and workshops on the upper floors, and the surrounding industrial developments.
- 11.3 The proposed use involves a floor area of 33.67m<sup>2</sup> and is located on the ground floor of an existing building with direct frontage onto Kin On Street (**Plan A-2**). In view of the nature of operation and small scale of the applied use, the proposal complies with TPB PG-No. 22D in that it would not induce adverse fire safety, traffic, environmental and infrastructural impacts on other uses within the subject building and the adjacent areas. Relevant Government departments consulted including D of FS, C for T, CBS/NTW of BD, CE/MN of DSD and DEP have no objection to/no adverse comment on the application.
- 11.4 As confirmed by D of FS, the subject building is protected by a sprinkler system and subject to a maximum permissible limit of 460m<sup>2</sup> for aggregate commercial floor area on G/F in accordance with TPB PG No, 22D. If the application is approved, the aggregated commercial floor area on G/F of the subject building will be 176.67m<sup>2</sup>, which is within the maximum permissible limit as set out in TPB PG-No. 22D. To address D of FS's concern on fire safety, approval condition in paragraph 12.2(a) below to require the submission and implementation of fire service installations to the satisfaction of D of FS is recommended.

11.5 The same Premises is the subject of a previously approved application for a fast food shop and real estate agency (No. A/TM/393) when the subject building was zoned “I” on the Tuen Mun OZP and there are two similar applications for shop and services for retail shop and real estate agency (No. A/TM/431 and A/TM/479) at other G/F units of the subject building when it was zoned “OU(B)”. These applications were approved mainly on grounds that it is in general compliance with the Board’s guidelines for commercial use in industrial building, it has no adverse fire safety and traffic impacts, and the applied use is not incompatible with the adjoining units. The approval of the current application for shop and service use is in line with the Committee’s previous decision.

11.6 No public comment on the application was received.

## 12. **Planning Department’s Views**

12.1 Based on the assessments 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 the commencement is proposed as the ‘Shop and Services’ use under application is already in operation at the Premises. The following approval conditions and advisory clauses are suggested for Members’ reference:

### Approval Conditions

- (a) the submission and implementation of fire service installations and equipment proposal for the application premises within six months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 30.10.2021;
- (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 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 conditions 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**

|                                   |  |
|-----------------------------------|--|
| <b>Appendix I</b>                 | Application form with attachments received on 30.12.2020               |
| <b>Appendices Ia(1) and Ia(2)</b> | Supplementary information received on 6.1.2021                         |
| <b>Appendices Ib(1) and Ib(2)</b> | FI received on 28 and 29.1.2021  |
| <b>Appendix Ic</b>                | FI received on 2.2.2021  |
| <b>Appendix Id</b>                | FI received on 10.2.2021   |
| <b>Appendix Ie</b>                | FI received on 17.2.2021   |
| <b>Appendix If</b>                | FI received on 17.3.2021   |
| <b>Appendix II</b>                | Details of previous application  |
| <b>Appendix III</b>               | Details of similar applications  |
| <b>Appendix IV</b>                | Advisory clauses   |
| <b>Drawing A-1</b>                | Floor plan submitted by the Applicant                                  |
| <b>Drawing A-2</b>                | Layout plan submitted by the Applicant                                 |
| <b>Plan A-1</b>                   | Location Plan  |
| <b>Plan A-2</b>                   | Site Plan  |
| <b>Plan A-2a</b>                  | Site Plan showing the land uses of the adjoining units of the Premises |
| <b>Plan A-2b</b>                  | Site Plan showing the current and previous applications                |
| <b>Plan A-3</b>                   | Aerial Photo   |
| <b>Plans A-4a and 4b</b>          | Site Photos  |

**PLANNING DEPARTMENT  
APRIL 2021**