

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

**APPLICATION NO. A/TM/572**

<b><u>Applicants</u></b>	:	Mr. Ng Shu Sum and Ms. Cheung Yuk Ting
<b><u>Premises</u></b>	:	Workshop Unit 10A (Part), G/F, Hang Wai Industrial Centre, 6 Kin Tai Street, Tuen Mun, New Territories
<b><u>Floor Area</u></b>	:	About 11.1m <sup>2</sup>
<b><u>Lease</u></b>	:	Tuen Mun Town Lot (TMTL) No. 114 held under New Grant No. 2232 - 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 plot ratio 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 and Wholesale Trade

**1. The Proposal**

- 1.1. The applicants seek planning permission to use the application premises (the Premises) for ‘Shop and Services’ and ‘Wholesale Trade’ uses. The Premises is located on the ground floor of an existing 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 Showrooms which may be permitted on any floor)’ and ‘Wholesale Trade’ are Column 2 uses which require planning permission from the Town Planning Board (the Board). The Premises is being used for the applied use without valid planning permission.
- 1.2. The Premises is the subject of a previous application (No. A/TM/345) for ‘Shop and Services’ and ‘Wholesale Trade’ uses submitted by different applicants which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 17.2.2006. The planning permission was revoked on 17.11.2007 because the applicants failed to comply with the planning condition related to submission and implementation of fire safety measures within the specified date.

- 1.3. The Premises occupies portion of Unit 10A on the ground floor of the subject building with a total floor area of about 11.1m<sup>2</sup> for a retail shop and wholesale of electronic appliance. As shown on the floor plan on **Plan A-2**, the Premises has direct frontage at Kin On Street. The layout plan submitted by the applicants is attached at **Drawing A-1**.
- 1.4. In support of the application, the applicant has submitted the following documents:
- (a) Application Form with plans and photos which were **(Appendix I)** received on 25.11.2021
  - (b) Further information (FI) received on 8.12.2021 providing **(Appendix Ia)** a revised layout plan with indication of emergency escape direction
  - (c) FI received on 4.1.2022 providing responses to comments **(Appendix Ib)** from Transport Department

*[(b) and (c) above exempted from publication and recounting requirements]*

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

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

The Premises was originally used as manufacturing workshop and warehouse. On 20.12.2005, the former owners submitted an application (No. A/TM/345) for 'Shop and Services' and 'Wholesale Trade' uses at the Premises, which was approved by the Board. On 23.5.2019, the applicants bought the Premises. In December 2019, the applicants applied to Tuen Mun District Lands Office (TM DLO) for change of name of a temporary waiver. TM DLO advised that the previous planning permission for shop and services and wholesale trade uses at the Premises was revoked and a valid planning permission from the Board is required. The current application is to facilitate the continuous operation of the shop and services and wholesale trade uses at the Premises.

## **3. Compliance with the "Owner's Consent/Notification" Requirements**

The applicants are 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 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 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/I-O and the routine activities of the workers in the industrial 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 Application**

The Premises is the subject of a previous application (No. A/TM/345) for shop and services and wholesale trade uses submitted by different applicants. It was considered by the Committee when the subject building falls within an area zoned “Industrial” (“I”) on the OZP. The application was approved with conditions by the Committee on 17.2.2006 mainly on the considerations that the applied uses were not incompatible with industrial/ industrial-related uses in the surroundings, complied with the relevant Board’s guidelines for commercial uses in industrial building within “I” zone and has no adverse traffic, environmental and fire safety impacts. The planning permission was revoked on 17.11.2007 as the applicants failed to comply with the condition regarding the submission and implementation of fire safety measures within the specified date.

## **6. Similar Applications**

- 6.1. There are 42 similar applications for shop and services/wholesale trade uses including retail shop, local provision store, real estate agency, fast food shop and convenience store at the ground floor units of the subject building. Amongst them, 33 applications were considered when the subject building was within an area zoned “I” on the Tuen Mun OZP and the remaining nine were considered after the site of the subject building was zoned “OU(B)” in 2011.

- 6.2. Amongst the 42 applications, 33 applications were approved by the Committee, and nine were rejected by the Committee or the Board on review. Among the nine applications which were considered under the “OU(B)” zone, four applications were approved by the Committee and five were rejected by the Committee or the Board on review mainly on ground of fire safety. Details of these similar applications are at **Appendix II** and their locations are shown on **Plan A-1**.
- 6.3. Amongst the 33 approved applications, only the following applications are still valid and should be counted towards the maximum permissible limit of 460m<sup>2</sup> for aggregate commercial floor area in the ground floor of the subject industrial building with sprinkler system according to TPB PG-No. 22D:

Application No.	Application Premises (G/F)	Proposed Uses/Development	Floor Area (about) (m <sup>2</sup> )	Date of Approval
A/TM/78 <sup>[1]</sup>	13-13A	Retailing of Vehicle Spare Parts	33	27.1.1989
A/TM/79 <sup>[1]</sup>	52	Wholesaling and retailing of packaging materials and stationery	32	27.1.1989
A/TM/81 <sup>[1]</sup>	121	Wholesaling and retailing of packaging materials and stationery	28	27.1.1989
A/TM/146 <sup>[1]</sup>	1B	Retailing of packaging materials and stationery	38	19.6.1992
A/TM/155 <sup>[1]</sup>	3 (portion)	Retailing of plastic bags and stationery	12	23.10.1992
A/TM/559	1A	Shop and Services	33.67	30.4.2021
A/TM/561	17A and 17 (Portion)	Shop and Services and Wholesale Trade with Ancillary Warehouse	65	13.8.2021
<b>Total Approved Floor Area: 241.67m<sup>2</sup>[2]</b>				

<sup>[1]</sup> These applications were approved when the subject building was still under “I” zone on the OZP.

<sup>[2]</sup> The total approved floor area of 241.67m<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 limit on aggregated commercial floor area is applicable to the applied use. If the application is approved, the aggregate commercial floor area will be 252.77m<sup>2</sup>, which is within the maximum permissible limit of 460m<sup>2</sup> for the subject building with a sprinkler system.

## **7. The Premises and its Surrounding Areas (Plans A-1 to A-3 and photos on Plan A-4)**

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 as a shop for retail and wholesale of electronic appliance without a valid planning permission; and
- (c) directly accessible from Kin On Street.

7.2. Based on site inspection conducted on 3.12.2021, the existing main uses of the subject building by floors are summarised below :

Floor	Main Uses
G/F	<b>The Premises</b> <sup>[1]</sup> , eating places <sup>[2]</sup> , canteen, storage, shops (real estate agency, logistics company, printing company, safety equipment retailing etc.), offices and 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.) and storage

<sup>[1]</sup>The remaining portion of Unit 10/10A is for storage / warehouse use [**Plan A-2a**].

<sup>[2]</sup>No record of planning approval granted for these eating places and shops.

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 are 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 Tuen Ma Line 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 District Lands Office/ Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) The Premises is located at Tuen Mun Town Lot No. 114 ('the Lot') which is held under New Grant No.2232 ('the New Grant'). 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 100 ft. but not exceeding 120 ft.
- (b) The Lot is also subject to a waiver for the lifetime of the existing building erected on the Lot for the purpose of a canteen.
- (c) The proposed 'Shop and Services' and 'Wholesale Trade' uses at the Premises do 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 application, 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.
- (d) 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 the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the application subject to the following:
  - (i) 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; and

- (ii) the means of escape of the Premises is totally separated from the industrial portion of the subject building;
- (b) 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;
- (c) 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
- (d) 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'.

### **Traffic**

#### **9.1.3 Comments of the Commissioner for Transport (C for T):**

He has no comment on the application from traffic engineering point of view provided that the proposed use will not generate/ attract additional trips and not generate parking and loading/ unloading demand.

#### **9.1.4 Comments of the Commissioner of Police (C of P):**

The Premises is accessible from Kin On Street via a local access. Over the past year, around 100 traffic complaint cases were reported at Kin Tai Street (**Plan A-2**). In the current application, there is no provision of parking space to facilitate both the visitors and the original road users. With the proposed change of use within an existing building from electronic wholesale trade to shop and services, the impact of increase in traffic demand, traffic accidents and illegal parking due to increased vehicle flow are expected. In view of the above concern, he has reservation on the application unless the road network can be improved.

### **Environment**

#### **9.1.5 Comments of the Director of Environmental Protection (DEP):**

He has no objection to the application from the environmental planning perspective as adverse environmental impact is not anticipated given the small scale and nature of the proposed uses.

### **Building Matters**

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

- (a) He has no in-principle objection under the Buildings Ordinance (BO) to the proposed uses within the Premises provided that the Premises is separated from adjoining unit/corridor with walls of fire resisting period not less than 2 hours.
- (b) The applicant should ensure that the capacity of the subject workshop unit would not be more 30 persons.
- (c) The deadend travel distance should be complied with the Clause B11.2 of the Code of Practice for Fire Safety in Buildings 2011.

### **Drainage**

9.1.7 Comments of the Director of Drainage Services (D of DS):

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.

### **Others**

9.1.8 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.

### **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 departments have no comment on/objection to the application:

- (a) Chief Highway Engineer/New Territories West, Highways Department;
- (b) Director of Electrical and Mechanical Services; and
- (c) Chief Engineer/Construction, Water Supplies Department.

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

On 3.12.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

## **11 Planning Considerations and Assessments**

- 11.1 The application is for shop and services and wholesale trade uses at the Premises within an existing industrial building which falls within an area 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 uses would not induce adverse fire safety and environmental impacts. The applied uses are considered generally in line with the planning intention of the “OU(B)” zone.
- 11.2 The applied uses on part of the ground floor of an existing industrial building are considered not incompatible with other uses within the same building which mainly comprises shop and services, canteen, 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 applied uses involve a floor area of about 11.1m<sup>2</sup> and the Premises is located on the ground floor of an existing building with direct frontage onto Kin On Street (**Plan A-2**). Although C of P has reservation on the application because of the expected increase in traffic demand, traffic accidents and illegal parking associated with the applied uses, it is considered that the premises has been used for the applied uses for some times and the applied uses are in small scale. C for T also has no comment on the application from traffic engineering aspect. Other relevant government departments consulted including D of FS, CBS/NTW of BD and DEP also have no objection to/no adverse comment on the application. In view of the nature of operation and small scale of the applied use, the application generally complies with TPB PG-No. 22D in that the applied use would not induce adverse traffic, fire safety and environmental impacts on other uses within the subject building and the adjacent areas.
- 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 the ground floor in accordance with TPB PG-No. 22D. If the application is approved, the aggregated commercial floor area on the ground floor of the subject building will be 252.77m<sup>2</sup>, which is within the maximum permissible limit of 460m<sup>2</sup>. In this regard, D of FS has no objection in principle to the application subject to the provision of fire service installations and equipment to his satisfaction.
- 11.5 The same Premises is the subject of a previously approved application for the same applied uses and there are 33 similar approved applications for shop and services at other ground floor units of the subject building, of which four were approved when the site was zoned “OU(B)”. The approval of the current application is in line with the Committee’s previous decisions.
- 11.6 There is no public comment received during the statutory public inspection period.

## **12 Planning Department's Views**

12.1 Based on the assessments made in paragraph 11, 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 and wholesale trade uses under application are 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 6 months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 14.7.2022; 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 to 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 the rejection should be given to the applicants.

## **14 Attachments**

<b>Appendix I</b>	Application form with attachment received on 25.11.2021
<b>Appendix Ia</b>	FI received on 8.12.2021
<b>Appendix Ib</b>	FI received on 4.1.2022
<b>Appendix II</b>	Details of similar applications
<b>Appendix III</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Layout Plan of the Premises submitted by the Applicant
<b>Plan A-1</b>	Location Plan

**Plan A-2**  
**Plan A-2a**  
**Plan A-3**  
**Plan A-4**

Site Plan  
Existing uses at the G/F of the subject building  
Aerial photo  
Site photos

**PLANNING DEPARTMENT**  
**JANUARY 2022**