

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/H20/189

<u>Applicant</u>	Jetweal Development Limited
<u>Premises</u>	Part of workshop 5, G/F, Cheung Tat Centre, 18 Cheung Lee Street, Chai Wan, Hong Kong
<u>Floor Area</u>	21.5 m ² (about)
<u>Lease</u>	CWIL 2 & CWIL 4 – restricted to industrial and/or godown purposes and subject to the non-offensive trades clause
<u>Plan</u>	Approved Chai Wan Outline Zoning Plan (OZP) No. S/H20/23
<u>Zoning</u>	“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 height of the existing building, whichever is the greater.]
<u>Application</u>	Renewal of planning permission for temporary Shop and Services (Property Agency) under Application No. A/H20/185 for a period of two years

1. The Proposal

- 1.1 On 29.12.2017, the applicant sought renewal of the planning permission to continue the use of the application premises at Part of workshop 5 (the premises), G/F, Cheung Tat Centre (the subject building) for shop and services (property agency) use for two more years. The current planning permission of the premises is valid until 18.3.2018.
- 1.2 In support of the application, the applicant has submitted the application form with attachments (**Appendix I**).
- 1.3 The floor plan of the premises and the ground floor plan of the subject building submitted by the applicant are at **Drawings A-1 and A-2** respectively.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 8 of the application form at **Appendix I**. They can be summarized as follows:

- (a) the premises is not suitable for uses such as car repair workshop and recycling industry as there are steps at the entrance;
- (b) the premises will be used for property agency to provide property rental and sales services to the public in the area;
- (c) the proposed use would reduce environmental pollution problems associated with industrial uses and is in line with the Government's policy on revitalization of industrial buildings; and
- (d) the property agency would be open from 10 a.m. to 8 p.m. from Monday to Sunday.

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

- 4.1 The Town Planning Board Guidelines No. 22D for Development within "OU(B)" Zone (TPB PG-No. 22D) and No. 34B on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34B) are relevant to this application.
- 4.2 Relevant assessment criteria under TPB PG-No. 22D for development within "OU(B)" zone:
 - (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) for existing industrial or I-O buildings, 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 as a general principle 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 building. 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, and all other statutory or non-statutory requirements of relevant Government departments must also be met. These include building structure, means of escape and fire safety requirements, which will be considered at the building plan submission stage.

4.3 Relevant assessment criteria under TPB PG-No. 34B for renewal of planning approval:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant government departments within the specific time limits;
- (d) whether the approval period sought is reasonable; and
- (e) any other relevant considerations.

5. Previous Applications

There are four previous planning applications (Nos. A/H20/57, A/H20/173, A/H20/181 and A/H20/185) concerning the premises and their details are as follows:

- (a) Application No. A/H20/57 for a proposed bank was submitted when the site was zoned “Industrial” (“I”) on the Chai Wan OZP and was approved with condition by the Metro Planning Committee (the Committee) on 17.9.1993.
- (b) Application Nos. A/H20/173 and 181 for temporary shop and services (retail shop and photographic studio) for a period of 1 year and 2 years respectively submitted by the same applicant as that of the current application were approved with condition by the Committee on 3.6.2011 and 3.1.2014. The approval condition for Application No. A/H20/181 (i.e. the submission and implementation of proposals for fire service installations, water supplies for firefighting and means of escape completely separated from the industrial portion) was complied with on 9.6.2014. The temporary planning permission lapsed on 3.1.2016.
- (c) Application No. A/H20/185 for temporary shop and services (property agency) for a period of 2 years was approved with condition by the Committee on 18.3.2016. A subsequent application (No. A/H20/185-1) for extension of time for compliance with approval condition until 18.12.2016 was approved by the Director of Planning under the delegated authority of the Town Planning Board on 12.9.2016. The approval condition for Application No. A/H20/185-1 (i.e. the submission and implementation of fire safety measures including fire service installations, water supplies for firefighting and means of escape completely separated from the industrial portion) was complied with on 15.12.2016. The temporary planning permission will lapse on 18.3.2018.

6. Similar Applications

6.1 There were 15 similar applications for shop and services use on the ground floor of the subject industrial building. Application No. A/H20/100 for restaurant use was rejected by the Committee on 14.4.2000 for reasons of fire safety concern and setting an undesirable precedent. The remaining 14 applications were all approved by the Committee. Details of the 14 approved similar applications, together with the four previous applications, are summarised below:

Application No.	Unit	Applied Use	Floor Area (about)	MPC Date	Decision
Uses applicable for maximum permissible limit of 460m ² for aggregate commercial floor area on G/F of the subject industrial building (with sprinkler system) in accordance with TPB PG-No. 22D					
A/H20/111	2D (portion)	Retail Shop	23m ² **	2.2.2001	Approved

Application No.	Unit	Applied Use	Floor Area (about)	MPC Date	Decision
A/H20/132	1	Retail Shop	102.19m ²	10.9.2004	Approved
A/H20/134	2D	Temporary Estate Agency Office for 3 years	37m ² #	5.11.2004 <i>(Lapsed on 5.11.2007)</i>	Approved with condition
A/H20/155	2C & 2D	Estate Agency Office	39.15m ²	2.11.2007	Approved with condition
A/H20/166	2B	Temporary Money Exchange for 3 years	15.8m ² @	25.6.2010 <i>(Revoked on 25.2.2011)</i>	Approved with condition
A/H20/169	4	Real Estate Agency	26.73m ²	23.12.2010	Approved with condition
A/H20/173	5	Temporary Retail Shop and Photographic Studio for 1 year	132.8m ² @	3.6.2011 <i>(Lapsed on 3.6.2012)</i>	Approved with condition
A/H20/174	2B	Temporary Money Exchange for 3 years	15.8m ² @	3.6.2011 <i>(Revoked on 3.11.2011)</i>	Approved with condition
A/H20/179	2B	Money Exchange	14.99m ²	4.4.2014	Approved with condition
A/H20/181	5	Temporary Retail Shop and Photographic Studio for 2 years	132.8m ² @	3.1.2014 <i>(Lapsed on 3.1.2016)</i>	Approved with condition
A/H20/185	Part of 5	Temporary Shop and Services (Property Agency) for 2 years	21.5m ²	13.3.2016	Approved with condition
A/H20/186	Part of 5	Temporary Shop and Services (Chinese Medical Clinic and Laundry) for 2 years	51m ²	28.10.2016	Approved with condition
Total Approved Floor Area:			255.56m² (Plan A-3)		
Uses <u>not</u> applicable for maximum permissible limit of 460m ² for aggregate commercial floor area on G/F of the subject industrial building (with sprinkler system) in accordance with TPB PG-No. 22D					
A/H20/57	5	Bank	158.7m ²	20.9.1993	Approved with condition

Application No.	Unit	Applied Use	Floor Area (about)	MPC Date	Decision
A/H20/63	4	Bank	61.2m ²	6.5.1994	Approved with condition
A/H20/102	3A	Fast Food Shop	24m ²	25.8.2000	Approved
A/H20/104	2C	Local Provisions Store	5m ²	13.10.2000	Approved
A/H20/106	2B	Fast Food Shop	15.7m ²	27.10.2000	Approved with condition
A/H20/108	3B	Fast Food Shop	30m ²	10.11.2000	Approved

The floor areas for application Nos. A/H20/111 and 134 at Workshop 2D are not included in the total approved floor as the area is included under application No. A/H20/155.

@ Application Nos. A/H20/166 and 174 at Workshop 2B are excluded as they were revoked on 25.2.2011 and 3.11.2011 respectively. Application Nos. A/H20/173 and 181 at Workshop 5 are excluded as they were lapsed on 3.6.2012 and 3.1.2016 respectively.

* Application No. A/H20/111 only includes portion of workshop 2D with a floor area of 23m² measured by PlanD.

6.2 Based on the above, the aggregate commercial floor area of shop and services use approved by the Committee on the G/F of the subject building, including the premises under this renewal application, is 255.56m². The aggregate commercial floor area is still within the maximum permissible limit of 460m² for an industrial building with sprinkler system.

7. The Application Premises and Its Surrounding Areas (Plans A-1 to A-2 and photos on Plan A-4 to A-5)

7.1 The premises is:

- (a) located at the south-western corner of the subject industrial building on ground floor with an entrance fronting Cheung Lee Street; and
- (b) currently in use as a property agency with shop frontage abutting onto Chui Hang Street.

7.2 The subject building:

- (a) is a 25-storey industrial building equipped with a sprinkler system; and
- (b) the current uses of the subject industrial building by floor are summarised below:

Floor	Current Uses
G/F	Premises (i.e. Part of workshop 5) , lobby and entrance to car park, shop and services, non-polluting industrial use, vacant

1/F – 2/F	car park and loading/unloading area
3/F – 24/F	art studio, non-polluting industrial use, office, warehouse

7.3 The surrounding area has the following characteristics:

- (a) the developments along both sides of Lee Chung Street and Cheung Lee Street are zoned “OU(B)” on the OZP and are predominantly industrial in nature;
- (b) the ground floors of the nearby industrial buildings are mainly used as car-repairing/printing/recycling workshops, retail shops and eating places;
- (c) a public housing estate (Wah Ha Estate) is located to the south of the subject building; and
- (d) the MTR Chai Wan Station is about 110m to the southeast of the subject industrial building.

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:

Fire Safety

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

- (a) no objection in principle to the application subject to:
 - (i) fire service installations and equipment being provided to the satisfaction of D of FS. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans, if any; and
 - (ii) means of escape separated from the industrial portion is available for the subject unit.

- (b) the subject 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 use should be counted up to the aggregated commercial floor area;
- (c) for matters relating 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 (BA); and
- (d) the applicant is advised to observe “Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises”.

Land Administration

9.1.2 Comments of the District Lands Officer/Hong Kong East, Lands Department (DLO/HKE, LandsD):

- (a) no comment on the application from lease perspective;
- (b) the subject premises, within Chai Wan Inland Lot Nos. 2 and 4, is restricted to industrial and/or godown purposes excluding any offensive, noxious, noisome or unhealthy trade, business or manufacture under the concerned land leases; and
- (c) the applicant has applied to LandsD for a temporary waiver to permit the use of the subject premises for shop and services use. Approval has been given to the temporary waiver application and the formal documentation is now under processing.

Building

9.1.3 Comments of the Chief Building Surveyor/Hong Kong East and Heritage, Buildings Department (CBS/HKE&H, BD):

- (a) no in principle objection to the application under the Buildings Ordinance (BO);
- (b) the proposed change in use/ alterations and additions works at the premises shall in all aspects comply with BO and its allied regulations;
- (c) the applicant is advised to engage an Authorized Person to assess the feasibility of the proposal and implement the proposed change in use/alterations and additions in compliance with BO, including but not limited to:

- (i) adequate means of escape should be provided to the subject premises and remaining portion of the premises in accordance with Building (Planning) Regulation 41(1) and the Code of Practice for Fire Safety in Buildings 2011 (FS Code);
- (ii) access and facilities for persons with a disability should be provided in accordance with Building (Planning) Regulation 72 and Design Manual: Barrier Free Access 2008;
- (iii) the subject premises should be separated from the remaining portion of the building by fire barriers of adequate fire resistance rating pursuant to Building (Construction) Regulation 90 and the FS Code; and
- (d) the granting of any planning approval should not be construed as an acceptance of any unauthorized building works (UBW) on the application premises under BO. Enforcement action may be taken by BA to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary.

Transport

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

No objection in principle to the proposed renewal of planning permission for temporary 'Shop and Services (Property Agency)' use at the premises. However, the applicant should be advised not to occupy the adjoining public footpath to avoid obstruction to pedestrian circulation.

9.2 The following government departments have no comment on the application:

- (a) Chief Highway Engineer/Hong Kong, Highways Department;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Chief Engineer/Hong Kong & Islands, Drainage Services Department;
- (d) Commissioner of Police;
- (e) District Officer (Eastern), Home Affairs Department; and
- (f) Director of Environmental Protection.

10. Public Comments Received During Statutory Publication Period

On 5.1.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 26.1.2018, one comment was received from the Management Office of Cheung Tat Centre indicating no objection to the application (**Appendix II**).

11. Planning Considerations and Assessment

- 11.1 The application is for renewal of the planning permission to continue the use of the premises for shop and services (property agency) use for two more years. The current application is the same as the previously approved application No. A/H20/185 in terms of area/boundary, applied use, development parameters and layout as well as the period of planning permission.
- 11.2 The applied use generally complies with the relevant assessment criteria in the TPB PG-No. 22D including the fire safety and traffic aspects. Relevant government departments including BD, Fire Services Department and Transport Department have no objection to or adverse comment on the application.
- 11.3 The application also generally complies with TPB PG-No. 34B in that there has been no major change in planning circumstances since the last approval, no adverse planning implication would arise from the renewal of the planning approval, the approval condition under the previously approved Application has been complied with, and the approval period sought is reasonable.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of two years from 19.3.2018 until 19.3.2020. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission and implementation of the fire safety measures including the provision of fire service installations and equipment, and means of escape separated from the industrial portion within six months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 19.9.2018; and
- (b) if the above approval 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 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), to be attached to the permission, and the date when the 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.

Attachments

Appendix I	Application form with attachments received on 29.12.2017
Appendix II	Public comments
Appendix III	Advisory clauses
Drawings A-1 & A-2	Plans submitted by the applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Plan of currently valid approved commercial uses on ground floor, Cheung Tat Centre
Plans A-4 & A-5	Site photos

**PLANNING DEPARTMENT
FEBURARY 2018**