

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

**APPLICATION NO. A/H20/191**

|                           |   |
|---------------------------|---|
| <b><u>Applicant</u></b>   | Jetweal Development Limited   |
| <b><u>Premises</u></b>    | Part of workshop 5, G/F, Cheung Tat Centre, 18 Cheung Lee Street, Chai Wan, Hong Kong   |
| <b><u>Floor Area</u></b>  | 51m <sup>2</sup> (about)  |
| <b><u>Lease</u></b>       | CWIL 2 & CWIL 4 – restricted to industrial and/or godown purposes and subject to the non-offensive trades clause  |
| <b><u>Plan</u></b>        | Approved Chai Wan Outline Zoning Plan (OZP) No. S/H20/23  |
| <b><u>Zoning</u></b>      | “Other Specified Uses” annotated “Business” (“OU(B)”)<br><br>[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.] |
| <b><u>Application</u></b> | Temporary Shop and Services (Chinese Medical Clinic & Laundry) for a Period of 2 Years  |

**1. The Proposal**

- 1.1 The applicant seeks planning permission to continue using the application premises at part of workshop 5 (the premises), G/F, Cheung Tat Centre (the subject building) for temporary ‘Shop and Services (Chinese Medical Clinic & Laundry)’ use for a period of two years. According to the Notes of the OZP, ‘Shop and Services’ use (other than motor-vehicle showroom on ground floor and service trades) of an industrial or industrial-office (I-O) building within the “OU(B)” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 The premises is the subject of a previous application (No. A/H20/186) for the same use and same period which was approved by the Board on 28.10.2016. The application was submitted by the same applicant of the current application. However, the planning permission has lapsed on 28.10.2018. The premises is currently operating as a Chinese medical clinic and a laundry shop without a valid permission.
- 1.3 In support of the application, the applicant has submitted the application form

(received on 10.12.2018) with attachments (**Appendix I**). The floor plan for the applied uses and the ground floor plan of the subject building submitted by the applicant are at **Drawings A-1 to A-4**.

**2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form at **Appendix I**. They are summarised as follows:

- (a) the Chinese medical clinic and laundry shop provide services that meet the needs of the community;
- (b) the applied uses would reduce environmental pollution problems associated with industrial uses and is in line with the Government's policy on revitalisation of industrial buildings; and
- (c) the usual operating hours of the applied uses would be from 9 a.m. to 9 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**

The TPB Guidelines for Development within "OU(B)" Zone (TPB PG-No. 22D) promulgated in September 2007 are 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) 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 460m<sup>2</sup> and 230m<sup>2</sup> 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 (HKPSG), 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.

## **5. Previous Applications**

- 5.1 The application premises is the subject of four previous planning applications (Nos. A/H20/57, 173, 181 and 186).
- 5.2 Application No. A/H20/57 for a proposed bank was submitted when the site was zoned "Industrial" ("I") on the Chai Wan OZP. It was approved with condition by the Metro Planning Committee (the Committee) of the Board on 20.9.1993.
- 5.3 Application Nos. A/H20/173 and 181 for temporary shop and services use (retail shop and photographic studio) for a period of 1 year and 2 years respectively submitted by the same applicant of the current application were approved with condition by the Committee on 3.6.2011 and 3.1.2014 respectively. However, the planning permissions lapsed on 3.6.2012 and 3.1.2016 respectively.
- 5.4 Application No. A/H20/186 for the same use and same period submitted by the same applicant of the current application was approved with condition by the Committee on 28.10.2016. The approval condition (i.e. the submission and implementation of fire safety measures including fire services installations, water supplies for firefighting and means of escape completely separated from the industrial portion) was complied with on 23.1.2017. The planning permission lapsed on 28.10.2018.

## **6. Similar Applications**

- 6.1 There were 16 similar applications for shop and services use on the ground floor of the subject 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 15 applications were all approved by the Committee.
- 6.2 Details of the 15 approved similar applications together with the four previous applications (19 applications in total), are summarised below:

| Application No.  | Unit                         | Applied Use  | Floor Area (about)         | MPC Date                             | Decision                |
|--|------------------------------|--|----------------------------|--------------------------------------|-------------------------|
| Uses applicable for maximum permissible limit of 460m <sup>2</sup> 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 <sup>2</sup> #*        | 2.2.2001                             | Approved                |
| A/H20/132  | 1                            | Retail Shop  | 102.19m <sup>2</sup>       | 10.9.2004                            | Approved                |
| A/H20/134  | 2D                           | Temporary Estate Agency Office for 3 years   | 37m <sup>2</sup> #         | 5.11.2004<br>(Lapsed on 5.11.2007)   | Approved with condition |
| A/H20/155  | 2C & 2D                      | Estate Agency Office   | 39.15m <sup>2</sup>        | 2.11.2007                            | Approved with condition |
| A/H20/166  | 2B                           | Temporary Money Exchange for 3 years   | 15.8m <sup>2</sup> @       | 25.6.2010<br>(Revoked on 25.2.2011)  | Approved with condition |
| A/H20/169  | 4 (Portion)                  | Real Estate Agency   | 26.73m <sup>2</sup>        | 23.12.2010                           | Approved with condition |
| A/H20/173  | 5                            | Temporary Retail Shop and Photographic Studio for 1 year   | 132.8m <sup>2</sup> @      | 3.6.2011<br>(Lapsed on 3.6.2012)     | Approved with condition |
| A/H20/174  | 2B                           | Temporary Money Exchange for 3 years   | 15.8m <sup>2</sup> @       | 3.6.2011<br>(Revoked on 3.11.2011)   | Approved with condition |
| A/H20/179  | 2B                           | Money Exchange   | 14.99m <sup>2</sup>        | 4.4.2014                             | Approved with condition |
| A/H20/181  | 5                            | Temporary Retail Shop and Photographic Studio for 2 years  | 132.8m <sup>2</sup> @      | 3.1.2014<br>(Lapsed on 3.1.2016)     | Approved with condition |
| A/H20/185  | Part of 5 (Portion A)        | Temporary Shop and Services (Property Agency) for 2 years  | 21.5m <sup>2</sup> @       | 13.3.2016<br>(Lapsed on 18.3.2018)   | Approved with condition |
| A/H20/186  | Part of 5 (Portions B and C) | Temporary Shop and Services (Chinese Medical Clinic and Laundry) for 2 years   | 51m <sup>2</sup> @         | 28.10.2016<br>(Lapsed on 28.10.2018) | Approved with condition |
| A/H20/189  | Part of 5 (Portion A)        | Renewal of planning permission for temporary Shop and Services (Property Agency) under Application No. A/H20/185 for a period of 2 years | 21.5m <sup>2</sup>         | 09.02.2018                           | Approved with condition |
| <b>Total Approved Floor Area:</b>  |                              |  | <b>204.56m<sup>2</sup></b> |                                      |                         |

| Application No.   | Unit | Applied Use            | Floor Area (about)  | MPC Date   | Decision                |
|---|------|------------------------|---------------------|------------|-------------------------|
| Uses <u>not</u> applicable for maximum permissible limit of 460m <sup>2</sup> 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 <sup>2</sup> | 20.9.1993  | Approved with condition |
| A/H20/63  | 4    | Bank                   | 61.2m <sup>2</sup>  | 6.5.1994   | Approved with condition |
| A/H20/102   | 3A   | Fast Food Shop         | 24m <sup>2</sup>    | 25.8.2000  | Approved                |
| A/H20/104   | 2C   | Local Provisions Store | 5m <sup>2</sup>     | 13.10.2000 | Approved                |
| A/H20/106   | 2B   | Fast Food Shop         | 15.7m <sup>2</sup>  | 27.10.2000 | Approved with condition |
| A/H20/108   | 3B   | Fast Food Shop         | 30m <sup>2</sup>    | 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, 181, 185 and 186 at Workshop 5 are excluded as they were lapsed.

\* Application No. A/H20/111 only includes portion of workshop 2D with a floor area of 23m<sup>2</sup> measured by PlanD.

6.3 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 is 204.56m<sup>2</sup>. If the subject application (with a floor area of 51m<sup>2</sup>) is approved, the aggregate commercial floor area will be 255.56m<sup>2</sup>, which is still within the maximum permissible limit of 460m<sup>2</sup> for an industrial building with sprinkler system.

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

7.1 The application premises is:

- located at the south-western part of the subject building on ground floor with an entrance fronting Chui Hang Street; and
- currently operating as a Chinese medical clinic and a laundry shop without valid planning permission.

7.2 The subject building:

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

| Floor | Current Uses   |
|-------|--|
| G/F   | <b>Application premises (i.e. part of workshop 5)</b> , lobby and entrance to car park, money exchange, estate agency, hardware retail store, small-scale printing and Xerox |

|            |   |
|------------|---|
|            | service, fitting-out works, clothes shop, 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 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 summarised as follows:

### Fire Safety

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

- (a) no specific comment on 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; and
  - (ii) means of escape separated from the industrial portion is available for the premises.
- (b) the subject building is protected with a sprinkler system so that the maximum permissible aggregate 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 aggregate commercial floor area;

- (c) regarding matters related to fire resisting construction of the premises, the applicant is reminded to comply with the “Code of Practice for Fire Safety in Buildings” which is administered by the Building Authority (BA); and
- (d) the 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”.

#### Land Administration

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

- (a) the 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
- (b) the applicant has applied to this office for a temporary waiver to permit the use of the premises for shop and services use. However, there is no guarantee that such application will be approved. If it is approved by LandsD acting in its capacity as the landlord at its absolute discretion, it will be subject to such terms and conditions including, among others, payment of waiver fee as may be imposed by LandsD.

#### Building

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

- (a) the proposed change in uses/alterations and additions works at the premises shall in all aspects comply with the Buildings Ordinance (BO) and its allied regulations;
- (b) the applicant is advised to engage an Authorised Person to assess the feasibility of the proposal and implement the proposed change in use/alterations and additions works in compliance with the BO, including but not limited to:
  - (i) adequate means of escape should be provided to the premises and the 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 premises should be separated from the remaining portion of the subject building by fire barriers of adequate fire resistance rating pursuant to Building (Construction) Regulation 90 and the FS Code; and
- (c) the granting of any planning approval should not be construed as an acceptance of any unauthorised building works (UBW) on the premises under the BO. Enforcement action may be taken by the BA to effect their removal in accordance with the enforcement policy of BD 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 subject application to permit the premises for commercial purpose (shop and services) from traffic engineering point of view.

##### 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 18.12.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 8.1.2019, one comment was received from the management office of Cheung Tat Centre (the subject building) indicating no comment on the application (**Appendix II**).

## **11. Planning Considerations and Assessment**

- 11.1 The application is to seek planning permission to continue using the premises for 'Shop and Services (Chinese Medical Clinic & Laundry)' use for a period of two years. The 'shop and services (Chinese Medical Clinic & Laundry)' use under application is generally in line with the planning intention of the "OU(B)" zone which is intended for general business uses.
- 11.2 The applied use is considered not incompatible with other uses at the G/F of the subject building as well as those non-polluting industrial uses and industrial-related offices on the upper floors. As advised by D of FS, the subject industrial building, which is provided with a sprinkler system, is subject to a maximum permissible limit of 460m<sup>2</sup> for aggregate commercial floor area on



G/F. As mentioned in paragraph 6.3 above, the current aggregate commercial floor area of shop and services uses approved by the Committee on the G/F of the subject building is 204.56m<sup>2</sup>. If the subject application (with a floor area of 51m<sup>2</sup>) is approved, the aggregate commercial floor area will be 255.56m<sup>2</sup>, which is still within the maximum permissible limit of 460m<sup>2</sup> for an industrial building with sprinkler system. Direct access is provided for the premises with a street frontage abutting onto Chui Hang Street. In this regard, D of FS has no objection to the application subject to an approval condition on the provision of fire safety measures.

- 11.3 Apart from the fire safety aspect, the applied use also complies with the TPB PG-No. 22D in that it would unlikely induce adverse traffic, environmental or infrastructural impacts to the uses within the subject building and the existing developments in the adjacent area. The relevant government departments, including TD, EPD and DSD have no comment on the application.
- 11.4 There are a total of 15 similar applications approved on the ground floor of the subject building for 'shop and services' use. The premises itself is also the subject of four previous applications (Nos. A/H20/57, 173, 181 and 186) which were all approved with condition by the Committee. The current application is the same as the last application (No. A/H20/186) in terms of area/boundary, applied use, development parameters and layout as well as the applied period of planning permission. There is no change in planning circumstances or in the characteristics of the surrounding area since the last planning permission was granted in 2016.
- 11.5 The public comment received did not raise objection to the application.

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

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, 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 2 years until 1.2.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### ***Approval conditions***

- (a) the submission and implementation of 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 planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 1.8.2019;
- (b) if the above approval condition 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 immediately 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 conditions and advisory clauses 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**

|                            |  |
|----------------------------|--|
| <b>Appendix I</b>          | Application form with attachments received on 10.12.2018           |
| <b>Appendix II</b>         | Public Comment   |
| <b>Appendix III</b>        | Advisory Clauses   |
| <b>Drawings A-1 to A-4</b> | Plans submitted by the applicant                                   |
| <b>Plan A-1</b>            | Location plan  |
| <b>Plan A-2</b>            | Site plan  |
| <b>Plan A-3</b>            | Location plan of current commercial uses on G/F, Cheung Tat Centre |
| <b>Plan A-4</b>            | Site photos  |

**PLANNING DEPARTMENT  
FEBRUARY 2019**