

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/H20/194

<u>Applicant</u>	Good Year New Tech Ltd.
<u>Premises</u>	Workshop 2A, G/F, Cheung Tat Centre, 18 Cheung Lee Street, Chai Wan, Hong Kong
<u>Floor Area</u>	48.47m ² (about)
<u>Lease</u>	CWIL 2 & CWIL 4 – restricted to industrial and/or godown purposes excluding any offensive, noxious, noisome or unhealthy trade, business or manufacture
<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>	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 at Workshop 2A on G/F of an existing industrial building, namely Cheung Tat Centre (the subject building). The subject building falls within an area zoned “OU(B)” on the approved Chai Wan OZP No. S/H20/23 (**Plan A-1**). According to the Schedule II of the Notes of the OZP for the “OU(B)” zone applicable to industrial or industrial-office (I-O) building, ‘Shop and Services’ use (other than Motor-vehicle showroom on ground floor and Service Trades) on the G/F of an existing industrial or I-O building requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises is the subject of a previous planning application (No. A/H20/100) for restaurant use which was rejected by the Metro Planning Committee (the Committee) of the Board on 14.4.2000 when the subject building was previously zoned “Industrial” (“I”) on the OZP. The Premises is currently used as a fashion shop without valid planning permission.

- 1.3 An extract of the ground floor plan of the subject building submitted by the applicant is at **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form received on 16.1.2020 (Appendix I)
 - (b) Further information received on 20.2.2020 providing responses to departmental comments
(accepted and exempted from publication and recounting requirement)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 10 of the application form at **Appendix I** and further information at **Appendix Ia**. They are summarised as follows:

- (a) there is no demand for industrial use at the Premises;
- (b) the Premises would be used for property agency;
- (c) the operation hours of the proposed shop and services would be from 9:00 a.m. to 7:00 p.m. from Monday to Saturday; and
- (d) it is anticipated that the vehicular traffic generated by the applied use would be insignificant and pedestrian flow was expected to be about 10 persons per day.

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 Town Planning Board Guidelines for Development within “OU(B)” Zone (TPB PG-No. 22D) promulgated in September 2007 are relevant to this application in the following aspects:

- (a) the “OU(B)” zone has been introduced to allow maximum flexibility in the use of existing industrial and industrial-office (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.

5. **Previous Application**

The Premises is the subject of a previous planning application (No. A/H20/100) for restaurant use which was rejected by the Committee of the Board on 14.4.2000 when the subject building was previously zoned "I" on the OZP mainly for reasons of fire safety concern and setting an undesirable precedent.

6. **Similar Applications**

- 6.1 There were 20 similar applications for 'Shop and Services' use on the ground floor of the subject building. All were approved by the Committee. Details of the similar 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 (Packaging material, wrapping paper and stationary)	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 (Lapsed on 5.11.2007)	Approved with conditions
A/H20/155	2C & 2D	Shop and Services (Estate Agency Office)	39.15m ²	2.11.2007	Approved with conditions
A/H20/166	2B	Temporary Shop and Services (Money Exchange) for 3 years	11.9m ² @	25.6.2010 (Revoked on 25.2.2011)	Approved with conditions
A/H20/169	4 (Portion)	Shop and Services (Real Estate Agency)	26.73m ²	23.12.2010	Approved with conditions
A/H20/173	5	Temporary Shop and Services (Retail and Photographic Studio for photographing online goods) for 1 year	132.8m ² @	3.6.2011 (Lapsed on 3.6.2012)	Approved with conditions
A/H20/174	2B	Temporary Shop and Services (Money Exchange) for 3 years	15.76m ² @	3.6.2011 (Revoked on 3.11.2011)	Approved with conditions
A/H20/179	2B	Shop and Services (Money Exchange)	14.99m ²	4.4.2014	Approved with conditions
A/H20/181	5	Temporary Shop and Services (Photographic Studio and Retail Shop) for 2 years	132.8m ² @	3.1.2014 (Lapsed on 3.1.2016)	Approved with conditions
A/H20/185	Part of 5 (Portion A)	Temporary Shop and Services (Property Agency) for 2 years	21.5m ² @	13.3.2016 (Lapsed on 18.3.2018)	Approved with conditions
A/H20/186	Part of 5 (Portions B and C)	Temporary Shop and Services (Chinese Medical Clinic and Laundry) for 2 years	51m ² @	28.10.2016 (Lapsed on 28.10.2018)	Approved with conditions
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 ²	09.02.2018	Approved with conditions
A/H20/191	Part of 5 (Portions B and C)	Temporary Shop and Services (Chinese Medical Clinic and Laundry) for 2 years	51m ²	1.2.2019	Approved with conditions
Total Approved Floor Area:			255.56m²		

Application No.	Unit	Applied Use	Floor Area (about)	MPC Date	Decision
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	159m ²	20.9.1993	Approved with conditions
A/H20/63^	4	Bank	73m ²	6.5.1994	Approved with conditions
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	16m ²	27.10.2000	Approved with conditions
A/H20/108^	3B	Fast Food Shop	30m ²	10.11.2000	Approved

Application No. A/H20/111 only includes portion of Workshop 2D with a floor area of 23m² measured by PlanD. The floor area is excluded in the total approved floor area as it has been included under Application No. A/H20/155.

@ Application Nos. A/H20/166 and 174 are excluded as they were revoked. Application Nos. A/H20/134, 173, 181, 185 and 186 are excluded as they were lapsed.

^ These applications were approved when the subject building was still under “I” zone on the OZP.

6.2 According to TPB PG-No. 22D, the ‘Shop and Services’ use under the application is subject to a maximum permissible limit of 460m² for aggregated commercial floor area on G/F of the subject industrial building with a sprinkler system. Should the subject application (with a floor area of 48.47m²) be approved, the approved aggregate commercial floor area on the G/F of the subject building would be about 304.03m², which is still within the maximum permissible limit.

6.3 Since 2001, the Committee has also considered 10 similar applications for various ‘Shop and Services’ uses on the ground level of other industrial and I-O buildings under “OU(B)” zone in Chai Wan. All the applications were approved with or without conditions by the Committee.

7. **The Application Premises and its Surrounding Areas** (Plans A-1 to A-3 and photos on Plans A-4 and A-5)

7.1 The Premises is:

- located at the eastern corner of the subject building on ground floor with an entrance fronting Chui Hang Street; and
- currently used as a fashion shop.

7.2 The subject building:

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

Floor	Current Uses
G/F	the Premises (i.e. Workshop 2A) , lobby and entrance to car park, money exchange, estate agency, Chinese medical clinic, laundry, hardware retail stores*, small-scale printing and Xerox service*, fitting-out works*, vacant
1/F & 2/F	Car park and loading/unloading area
3/F – 24/F	Art studio, non-polluting industrial use, office, warehouse

* There is no record of planning approvals granted for such uses (**Plan A-3**).

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) opposite across Chui Hang Street to the southeast of the subject building is a public housing estate (Wah Ha Estate); 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:

Land Administration

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

- (a) the subject building is erected on Chai Wan Inland Lot Nos. 2 and 4, which is restricted to industrial and/or godown purposes excluding any offensive, noxious, noisome or unhealthy trade, business or manufacture under Conditions of Sale Nos. 7229 and 7160 as modified by two no-objection letters dated 13.4.1992 and two modification letters dated 16.4.1993; and

- (b) if planning approval from the Committee is given, the owner of the Premises is required to apply to this office for a temporary waiver to give effect to the approved planning 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 fees, as may be imposed by LandsD.

Fire Safety

9.1.2 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 his department. 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 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) 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; and
- (d) the 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” if the application is approved.

Building Matters

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

- (a) no objection to the application;
- (b) the proposed change in use/alterations and additions works at the Premises under application shall in all aspects comply with the Buildings Ordinance (BO) and its allied regulations;
- (c) 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 subject Premises and remaining portion of the Premises in accordance with regulation 41(1) of the Building (Planning) Regulations (B(P)R) 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 regulation 72 of the B(P)R 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 regulation 90 of the Building (Construction) Regulations and the FS Code;
- (d) the granting of any planning approval should not be construed as an acceptance of any unauthorised building works (UBW) on the subject Premises under the BO. Enforcement action may be taken by the Building Authority to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary; and
- (e) detailed comments under the BO can only be provided at the building plan submission stage.

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

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

10. Public Comment Received During Statutory Publication Period

On 24.1.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 14.2.2020, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The application is to seek planning permission to use the Premises at G/F of the subject building for 'Shop and Services' use, which falls within an area zoned "OU(B)" on the OZP. The Premises is currently used as a fashion shop without valid planning permission. According to the Notes of the OZP, 'Shop and

Services' use (other than Motor-vehicle showroom on ground floor and Service Trades) on G/F of an existing industrial or I-O building within the "OU(B)" zone requires planning permission from the Board. The "OU(B)" zone is intended primarily for general business uses. It allows greater flexibility in the use of the existing industrial or I-O buildings provided that the use would not result in adverse fire safety or environmental impacts. The 'Shop and Services' use at the Premises under application is considered generally in line with the planning intention.

- 11.2 The subject building is surrounded mainly by industrial and I-O buildings with some 'Shop and Services' uses on G/F and a public housing estate is located opposite across Chui Hang Street to the southeast. The proposed use is considered not incompatible with the general land use character of the surrounding area, as well as other uses at the G/F and non-polluting industrial uses and industrial-related offices on the upper floors of the subject building.
- 11.3 The proposed use generally complies with TPB PG-No. 22D in that it would not induce adverse fire safety, traffic, environmental or infrastructural impacts on the existing uses within the subject building and the existing developments of the adjacent areas. Relevant government departments including Fire Services Department, BD, Transport Department, WSD and DSD have no objection to or no adverse comment on the application.
- 11.4 As advised by D of FS, the subject building, which is provided with a sprinkler system, is subject to a maximum permissible limit of 460m² for aggregate commercial floor area on G/F. As mentioned in paragraph 6.1, the current aggregate commercial floor area of 'Shop and Services' use approved by the Committee on the G/F of the subject building is 255.56m². Should the current application (with a floor area of 48.47m²) be approved, the aggregate commercial floor area on the G/F will be about 304.03m², which is within the maximum permissible limit of 460m² for an industrial building with sprinkler system. Direct access is provided for the Premises with a street frontage at Chui Hang Street. In this regard, D of FS has no objection to the application subject to the imposition of an approval condition on the provision of fire safety measures.
- 11.5 The Premises is the subject of a previous application (No. A/H20/100) for restaurant use which was rejected by the Committee on 14.4.2000 when the subject building was zoned "I" on the OZP mainly for fire safety reasons and setting of an undesirable precedent. The concerned "I" zone was subsequently rezoned to "OU(B)" in 2001 on the recommendation of the "Area Assessments of Industrial Land in the Territory" where 'Shop and Services' use on G/F of an existing industrial or I-O building (other than Motor-vehicle showroom on G/F and Service Trades) may be permitted upon application to the Board subject to no unacceptable fire risks. As mentioned in paragraphs 6.2 and 6.3 above, there were other similar applications for various 'Shop and Services' uses on the ground level of industrial and I-O buildings within "OU(B)" zone in Chai Wan approved by the Committee. There is no change in planning circumstances or in the characteristics of the surrounding area since the last planning permission was granted in 2019. The approval of the current application is consistent with the previous decisions of the Committee on the similar applications.
- 11.6 There is no public comment received on the application.

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, it is suggested that the permission shall be valid until 6.3.2022, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses for the application are suggested for Members' reference:

Approval conditions

- (a) 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 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 6.9.2020; and
- (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 without further notice.

Advisory clauses

The recommended advisory clauses are attached at **Appendix II**.

- 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

Appendix I	Application form with attachments received on 16.1.2020
Appendix Ia	Further information received on 20.2.2020
Appendix II	Advisory clauses
Drawing A-1	Plan submitted by the applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Location plan of current commercial uses on G/F of Cheung Tat Centre
Plans A-4 and A-5	Site photos

**PLANNING DEPARTMENT
MARCH 2020**