

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K5/818

- Applicant** : Evangelize China Fellowship Tsimshatsui Canaan Church Limited represented by Aikon Development Consultancy Limited
- Premises** : Shop Nos. 5 to 8, G/F, Parkone, 1 Nam Cheong Street, Sham Shui Po, Kowloon
- Area of Premises** : About 223m²
- Lease** : (a) New Kowloon Inland Lot (NKIL) No. 46 s.A ss.1, s.D, s.E and R.P.
(b) Virtually unrestricted except for “non-offensive trades” and “rate and range” clauses
- Plan** : Approved Cheung Sha Wan Outline Zoning Plan (OZP) No. S/K5/37
- Zoning** : “Residential (Group A)6” (“R(A)6”)

[Restricted to a maximum plot ratio (PR) of 7.5 for a domestic building or 9.0 for a building that is partly domestic and partly non-domestic, and a maximum building height (BH) of 80mPD (100mPD for sites with an area of 400m² or more), or the PR/BH of the existing building, whichever is the greater.]
- Application** : Proposed Religious Institution (Church)

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed religious institution (church) at shop nos. 5 to 8 of on G/F of a residential development (i.e. Parkone) (the Premises) which consists of a residential tower above a non-domestic podium (**Plan A-3**). According to the Notes of the OZP for the “R(A)” zone, ‘Religious Institution (not elsewhere specified)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board).

- 1.2 The area of the Premises is about 223m² including a covered floor area of 205m² and an open yard of 18m² fronting a scavenging lane (**Drawing A-1**). According to the applicant, minor works for alteration of the internal layout of the Premises would be required upon approval of the application to support the church operation. The proposed religious institution mainly consists of a church assembly hall and a church staff room. The assemblies will be normally held on Sundays and other religious activities and services will be held on Mondays to Saturdays.
- 1.3 The Premises is accessible via independent entrance(s) on G/F of the building at Nam Cheong Street and there is another independent entrance via the backdoor of the Premises to scavenging lane (**Plans A-2a** and **A-3**). There will be no parking space and loading/unloading (L/UL) bay provided for the proposed religious institution. The layout plan of the Premises 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 16.4.2020 and (**Appendix I**) supplementary information received on 22.4.2020
 - (b) Planning Statement (**Appendix Ia**)
 - (c) Letter dated 26.5.2020 providing responses to (**Appendix Ib**) departments comments and clarifications #
 - (d) Letter dated 16.7.2020 providing responses to (**Appendix Ic**) departmental comments #
 - (e) Letter dated 5.8.2020 providing responses to (**Appendix Id**) departmental comments #
 - (f) Letter dated 19.8.2020 providing responses to (**Appendix Ie**) departmental comments #
- [# Accepted and exempted from the publication and recounting requirements.]*
- 1.5 The application was originally scheduled for consideration by the Metro Planning Committee (the Committee) of the Board on 12.6.2020. Upon request of the applicant, the Committee agreed on 12.6.2020 to defer making a decision on the application for two months in order to allow time for the applicant to prepare further information to address departmental comments. With the applicant's further information received on 16.7.2020, the application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the planning statement and submissions of further information at **Appendices Ia** to **Ie**. They are summarised as follows:

Land Use Compatibility

- (a) the Premises is located within a predominately residential neighbourhood with non-domestic uses on the lower floors mainly accommodating retail shops, restaurants, tutorial centres, elderly centres and recyclable collection workshops. The proposed church at the Premises is considered not in conflict with the planning intention of the “R(A)” zone and not incompatible with the surrounding areas;

Need for Religious Establishment

- (b) the applicant, a Christian church, has been providing community services and religious activities to the members at the head office in Tsim Sha Tsui and a temporary sublet space in Tai Hang Tung. The Premises will be a permanent venue for the church in Tsim Sha Tsui to serve the existing members and local newcomers in the area. There is demand for religious establishments in the surrounding areas. The proposed church will be able to satisfy the local residents’ social and spiritual needs;

No Adverse Impact

- (c) the Premises is easily accessible and well served by public transport including various bus services, minibus services and the MTR Sham Shui Po Station. It is expected that most attendees will use public transport services to the proposed church. The applicant will make announcement at the weekly meetings and gatherings and provide information on the public transports in their monthly newsletter to remind the attendees to use public transport to the proposed church. A notice on public transport information will be also posted within the proposed church. The proposed church is small in scale and the demand for car parking spaces and L/UL facilities is very low. There are public car parks in the commercial/residential developments in the surrounding area, on-street meter parking spaces at Pei Ho Street and Yee Kuk Street, and L/UL areas along Hai Tan Street and Tung Chau Street. The church is not likely to cause adverse traffic impact to the surrounding area;
- (d) the Premises and the residential tower above have separate entrances (**Plans A-2a and A-3**). The Premises is segregated from the above residential floors by a non-domestic floor that is now occupied by a kindergarten at 1/F. The Premises is also segregated from the lobby of the residential tower by other non-domestic units at G/F. The Premises will be fully enclosed and all activities of the proposed church will be held in the covered area of the Premises, hence the proposed church will not cause any noise nuisance and interface issue to the residents above;
- (e) appropriate fire safety installations would be implemented to the satisfaction of concerned departments; and

Will not set an Undesirable Precedent

- (f) there are similar applications for religious institution in “R(A)” zone approved by the Board including application No. A/K5/804 approved in August 2019 within the

same OZP. Approval of the subject application will not set an undesirable precedent.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not a “current land owner” of the Premises but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by sending notification to the owners of the Premises by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Application

There is no previous application at the Premises.

5. Similar Applications

- 5.1 Since 1990, there were seven similar planning applications for religious institution within “R(A)” zone on the Cheung Sha Wan OZP (**Plan A-1**). Six of the applications (Nos. A/K5/141, A/K5/539, A/K5/606, A/K5/665, A/K5/688 and A/K5/804) were approved with or without conditions while the remaining application (No. A/K5/722) was rejected by the Committee.
- 5.2 Amongst the approved applications, five applications were approved mainly on the reasons that the religious institution use was not incompatible with uses of the same building and the surrounding land uses and they would not cause nuisance to the residential use as the religious institution was either located in a free-standing building (No. A/K5/141) or a commercial block/office building (Nos. A/K5/539 and A/K5/606), or provided with independent access separated from the residential portion of the composite building (Nos. A/K5/688 and A/K5/804). Another application (No. A/K5/665) was approved mainly on the reason that the subject religious institution had existed at the application premises for more than 30 years, the applicant had undertaken to equip with new emission reduction devices for the incense burner, and no public objection was received.
- 5.3 Application No. A/K5/722 was rejected mainly on the grounds that the proposed religious institution was not served with an independent access separated from the domestic portion of the composite building, and the approval would set an undesirable precedent for other similar religious institution application which would lead to intrusion of religious institution use into composite buildings with shared use of the existing access with the residential use on other floors.
- 5.4 Details of these applications are at **Appendix II**.

6. The Premises and Its Surrounding Areas (Plans A-1 to A-5)

6.1 The Premises:

- (a) is located on the G/F of a residential development (i.e. Parkone);
- (b) is mainly accessible via Nam Cheong Street with independent entrance(s) on G/F and there is another independent access via the backdoor to scavenging lane. There is a separate entrance and lift lobby on G/F serving the upper residential units; and
- (c) is currently vacant.

6.2 The subject building is a 39-storey composite building with uses summarised as follows:

Floors	Current Uses
G/F	The Premises , entrance lobby of the residential tower, entrance of a kindergarten, vacant units
1/F	Kindergarten and plant room
2/F	Plant room
3/F	Residents' recreational facilities
5/F	Podium garden of the residential tower
6/F to 43/F (13/F, 14/F, 17/F, 24/F and 34/F omitted)	Residential flats

6.3 The surrounding area has the following characteristics (**Plan A-2**):

- (a) the area is predominately zoned "R(A)" with mainly composite residential buildings accommodating commercial uses including shop and services and eating places as well as workshops on the lower floors;
- (b) to the further northwest is a comprehensive development (i.e. Seaside Sonata) zoned "Comprehensive Development Area" on the approved Urban Renewal Authority Hai Tan Street/Kweilin Street and Pei Ho Street Development Scheme Plan No. S/K5/URA2/2 which is under construction;
- (c) to the southwest across the West Kowloon Corridor is the Tung Chau Street Park; and
- (d) the area is well served with public transport. The MTR Sham Shui Po Station is located at about 550m to the northeast (**Plan A-1**).

7. Planning Intention

The planning intention of “R(A)” zone is intended primarily for high-density residential developments. Commercial uses are always permitted on the lowest three floors of a building or in the purpose-designed non-residential portion of an existing building.

8. Comments from Relevant Government Departments

8.1 The following Government bureau/departments have been consulted and their views on the application are summarised as follows:

Policy Perspective

8.1.1 Comments of the Secretary for Home Affairs (SHA):

- (a) no objection to the planning application from religious point of view; and
- (b) the Evangelize China Fellowship Tsimshatsui Canaan Church (the applicant) is one of the 16 affiliated churches of the Evangelize China Fellowship. It is noted from the applicant that the organisation aims at proclaiming the gospel and regularly holds religious activities such as Sunday Services and Christian fellowship. He is therefore satisfied that the applicant is a bona fide religious organization. He notes that the applicant is also a charitable organisation registered under section 88 of the Inland Revenue Ordinance (Cap. 112).

Land Administration

8.1.2 Comments of the District Lands Officer/Kowloon West, Lands Department (DLO/KW, LandsD):

- (a) no objection to the application; and
- (b) the Premises falls within s.A ss.1, s.D, s.E, and R.P. of NKIL No. 46 (“the Lots”) which are governed by Government Lease dated 28.5.1929 (“the Lease”). The Lots are virtually unrestricted except with “non-offensive trades” and “rate and range” clauses. The proposed use as religious institution (church) does not conflict with the lease conditions governing the Premises.

Traffic Aspect

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

- (a) no comment on the application from traffic engineering point of view; and

- (b) C for T has the rights to impose, alter or cancel any car parking loading/unloading facilities and/or any no-stopping restrictions, on all local roads to cope with changing traffic conditions and needs. The frontage road space would not be reserved for any exclusive uses of the subject development.

Building Aspect

8.1.4 Comments of the Chief Building Surveyor/Kowloon, Buildings Department (CBS/K, BD):

- (a) no objection in principle to the application;
- (b) all proposed building works should comply with the Buildings Ordinance (BO) and allied regulations; and
- (c) detailed comments on the proposal under the BO will be formulated at the building plans submission stage under the building regime.

Fire Safety

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

no objection to the captioned proposal subject to fire service installations and water supplies for firefighting being provided to the satisfaction of the Fire Services Department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans.

Environmental Aspect

8.1.6 Comments of the Director of Environmental Protection (DEP):

- (a) in view of the small scale and nature of the proposed development, it will unlikely cause major pollution and the Environmental Protection Department has no objection to the application; and
- (b) the applicant is advised to minimise any noise from the church such that it would not cause any noise nuisance to nearby sensitive receivers and that it is the obligation of the applicant to meet all statutory requirements under relevant pollution control ordinances including the Noise Control Ordinance and provide necessary mitigation measures.

Other Aspect

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

no environment nuisance, pest infestation and obstruction to the surroundings should be generated. For any waste generated, the applicant should arrange its disposal properly at their own expenses.

8.2 The following departments consulted have no objection to/no comment on the application:

- (a) Chief Highway Engineer/Kowloon, Highways Department (CHE/K, HyD);
- (b) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Commissioner of Police (C of P); and
- (e) District Officer (Sham Shui Po), Home Affairs Department (DO(SSP), HAD).

9. Public Comments Received During the Statutory Publication Periods

During the statutory publication period, a total of six public comments objecting to the application were received from the individuals (**Appendix III**). The objecting comments are mainly of the views that the proposed development would cause adverse impacts on vehicular and pedestrian traffic, public hygiene, safety, and noise to the residents of the subject building. There are also concerns on the nature and operation of religious institution and the Premises should be for retail shops to serve the local residents.

10. Planning Considerations and Assessments

10.1 The planning application is to seek planning permission for using the Premises for a proposed church. The Premises is located on the G/F of the non-domestic podium of an existing residential development which falls within “R(A)” zone. The planning intention of the “R(A)” zone is primarily for high-density residential developments and commercial uses are always permitted on the lowest three floors of a building or in the purpose-designed non-residential portion of an existing building. While the use of the Premises for a church may not be entirely in line with the planning intention of “R(A)” zone, it is considered not incompatible with the existing kindergarten on 1/F of the non-domestic podium of the building. As the non-domestic podium and the residential tower above have separate entrances and the church is accessible via independent entrance(s) at Nam Cheong Street (**Plans A-2a and A-3**), it is envisaged that the proposed church would not cause nuisance to the residents of the same building. In this regard, SHA and DO(SSP) have no objection to or no comment on the application.

10.2 The proposed church is also considered not incompatible with the surrounding developments which are mainly commercial/residential buildings with commercial uses including shop and services and eating places at ground/podium floors. It would unlikely cause adverse impacts on the surrounding areas. The relevant Government departments including C for T, DEP, DFEH and C of P have no adverse comment on the application. D of FS has no objection to the application subject to the provision of fire service installations and water supplies for firefighting. As such, should the application be approved, an approval condition on fire safety as set out in paragraph 11.2 below is recommended.

- 10.3 Regarding the adverse public comments, the planning assessments above and the departmental comments in paragraph 8 above are relevant. As for the concerns on the nature and operation of the proposed church, the applicant is a bona fide religious organisation as well as a registered charitable organisation and SHA has no objection to the application.

11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10 above and having taken into account the public comments mentioned in paragraph 9 above, the Planning Department has no objection to the application.
- 11.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 4.9.2024, 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 are suggested for Members' reference:

Approval condition

- (a) the provision of fire service installations and water supplies for fire-fighting before operation of the proposed use to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (b) if the above planning condition (a) is not complied with before operation of the proposed use, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

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

- 11.3 There is no strong reason to recommend rejection of the application.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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, and the date when the validity of the permission should expire.
- 12.3 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.

13. Attachments

Appendix I	Application Form received on 16.4.2020 and supplementary information received on 22.4.2020
Appendix Ia	Planning Statement
Appendix Ib	Letter dated 26.5.2020 providing responses to departments comments and clarifications
Appendix Ic	Letter dated 16.7.2020 providing responses to departmental comments
Appendix Id	Letter dated 5.8.2020 providing responses to departmental comments
Appendix Ie	Letter dated 19.8.2020 providing responses to departmental comments
Appendix II	Similar s.16 applications within “R(A)” zone on Cheung Sha Wan OZP
Appendix III	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-2a	Ground Floor Plan of Parkone
Plans A-3 to A-5	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2020**