

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

**APPLICATION NO. A/ST/962**

<b><u>Applicant</u></b>	:	HK JEBN Assets Management Limited represented by RHL Surveyors Limited
<b><u>Premises</u></b>	:	Portion of G/F, HK JEBN Group Center, 13-15 Shing Wan Road, Tai Wai, New Territories
<b><u>Floor Area</u></b>	:	448m <sup>2</sup> (about)
<b><u>Lease</u></b>	:	(a) STTL No. 39 (New Grant No.11247) (b) restricted to industrial and/or warehouse purposes or both
<b><u>Plan</u></b>	:	Approved Sha Tin Outline Zoning Plan (OZP) No. S/ST/34
<b><u>Zoning</u></b>	:	“Industrial” (“I”)
<b><u>Application</u></b>	:	Temporary Shop and Services for a period of five years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for temporary ‘Shop and Services’ use for a period of five years. According to the Notes of the OZP, ‘Shop and Services (not elsewhere specified) (ground floor only, except in wholesale conversion of an existing building and Ancillary Showroom which may be permitted on any floor)’<sup>1</sup> use in “I” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises, with a floor area of about 448m<sup>2</sup>, is located on the ground floor of HK JEBN Group Center abutting Shing Wan Road. It comprises a retail shop with a floor area of 394m<sup>2</sup> and a fast food counter with a floor area of 54m<sup>2</sup>. It is the subject of a previous application No. A/ST/873 submitted by the same applicant for the same use approved by the Rural and New Town Planning Committee (the Committee) on 4.9.2015 with conditions on a temporary basis for a period of three years. Approval condition on fire safety measures has been complied with. Planning permission under the previous application is valid until 4.9.2018. The subject retail shop and fast food counter is currently operating without valid planning permission.

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<sup>1</sup> ‘Shop and Services (Motor-vehicle Showroom on ground floor, Service Trades only)’ is always permitted in the “I” zone.

1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form with attachments on 30.8.2018 (Appendix I)
- (b) Further information (FI) received on 12.9.2018 clarifying the breakdown of floor area (Appendix Ia)
- (c) FI received on 10.10.2018 enclosing a replacement page of the application form (Appendix Ib)

1.4 The floor and layout plans of the Premises submitted by the applicant are shown in **Drawings A-1 and A-2**.

## **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 can be summarized as follows:

- (a) similar to typical industrial buildings, the design of the whole ground floor can be used for commercial purposes. The floor loading and fireproof period are satisfied as the new uses are lesser stringent than industrial use;
- (b) the subject industrial building is located within 10-minute walking distance away from MTR Tai Wai Station and various bus routes are serving the vicinity;
- (c) the potential shoppers are local ones who work in the area. As the area is industrial in nature, shoppers coming from other districts are unlikely;
- (d) there are existing loading and unloading facilities in the subject building. The anticipated increase in traffic is minimal; and
- (e) the ground floors of the adjacent industrial buildings are used mainly for industrial uses with several utilized for commercial purposes, such as cycling product shops, metalware shops, property agencies and other commercial uses.

## **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 Use/Development within “Industrial” Zone’ (TPB PG-No. 25D), which was revised and promulgated in September 2007, is relevant to this application. For a proposed commercial use in an industrial building, relevant planning assessment criteria are summarized as follows:

- (a) it should be demonstrated that there is a genuine need for the proposed use under application and no suitable alternative accommodation can be found in the

vicinity. The location and scale of the proposed use should be justified on operational grounds;

- (b) there should be an adequate provision of parking and loading/unloading facilities within the site in accordance with the Hong Kong Planning Standards and Guidelines and to the satisfaction of the Transport Department. The inclusion and operation of the proposed commercial use should not adversely affect the traffic conditions in the local road network; and
- (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 building with and without sprinkler systems should as a general principle not exceeding 460m<sup>2</sup> and 230m<sup>2</sup> respectively. The limits on aggregate 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 building. These uses include bank, fast food counter (sited at street level without seating accommodation and licensed as food factory), electrical shop, local provisions store and showroom in connection with the main industrial use. Moreover, the 230m<sup>2</sup>/460m<sup>2</sup> criteria do not apply to cases involving conversion of the low zone of an existing industrial building for commercial uses if the commercial portion is completely separated from the industrial portion on the upper floors by a buffer floor of non-hazardous occupancy such as a car-parking floor. In all cases, separate means of escape should be available for the commercial portion.

## 5. Previous Application

The Premises is the subject of a previous application No. A/ST/873 submitted by the same applicant for the same use (**Plan A-2** and **Appendix II**). It was approved with conditions by the Committee on 4.9.2015 on a temporary basis for a period of three years on the consideration that the proposed development was not incompatible with the industrial/industrial-related uses in the surroundings; the proposed development complied with TPG PG-No. 25D; and the relevant departments had no adverse comment. The approval condition on fire safety measures had been complied with. The planning permission is valid until 4.9.2018.

## 6. Similar Applications

- 6.1 There is no similar application for commercial use on the ground floor of the subject industrial building. Should the Committee approve the current application, the total approved commercial floor area will be 448m<sup>2</sup>, which is within the maximum permissible limit of 460m<sup>2</sup> on G/F of an industrial building (with sprinkler system) according to TPB PG-No. 25D.
- 6.2 There are two similar applications for commercial uses on the ground floor of an industrial building in the vicinity (**Plan A-2** and **Appendix III**). Both applications were approved with conditions by the Committee on the consideration that the applications were not incompatible with the industrial-related uses in the surrounding developments; generally complied with TPB PG-No. 25D; and the relevant departments had no adverse comment.

7. **The Premises and its Surrounding Areas (Plans A-1 to A-3b)**

7.1 The Premises is:

- (a) located on G/F of HK JEBN Group Center; and
- (b) with direct access to Shing Wan Road.

7.2 The subject industrial building is:

- (a) 8 storeys in height bounded by Shing Wan Road and Shing Hing Street. Parking spaces for private cars and lorries are provided on 1/F of the building with vehicular access from Shing Hing Street; and
- (b) currently occupied by the following uses on various floors:

<b>Floor</b>	<b>Current Uses</b>
G/F	<b>Application premises</b> , reception, loading and unloading area
1/F	Parking spaces for private cars and lorries
2/F to 6/F	Godown, food factory
7/F	Offices
8/F	Roof

7.3 The surrounding areas have the following characteristics:

- (a) the surrounding area is an established industrial area with medium-rise industrial buildings with various commercial uses including offices and shop and services on ground floor; and
- (b) MTR Tai Wai Station is located about 300m to the southwest of the subject industrial building.

8. **Planning Intention**

The “I” zone of Tai Wai is intended primarily for general industrial uses to ensure an adequate supply of industrial floor space to meet demand from production-oriented industries. Information technology and telecommunications industries and office related to industrial use are also always permitted in this zone.

## **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/Shu Tin, Lands Department (DLO/ST, LandsD):

- (a) no objection to the application from land administrative perspective;
- (b) the Premises is situated on STTL No. 39 and is governed under New Grant No. 11247 (“the New Grant”). Under the New Grant, the lot shall not be used for any purpose other than industrial or warehouse purposes or both excluding offensive trade; and
- (c) the proposal under application to use the Premises as ‘Shop and Services’ use is not permitted under the lease. However, the Premises is currently subject to a temporary waiver (W634) allowing the use of ‘Shop and Services’ with a waiver area of 413m<sup>2</sup>, which is a bit smaller than the area under application.

### **Building Matters**

9.1.2 Comments of the Chief Building Surveyor/New Territories (2) & Rail, Buildings Department (CBS/NTE(2)&Rail of BD):

- (a) she has no in-principle objection to the application under the Buildings Ordinance;
- (b) the applicant is advised to observe the following requirements which may necessitate the submission of plans for approval under the Buildings Ordinance:
  - (i) adequate exit doors with individual and total widths complying with “Code of Practice for Fire Safety in Building 2011” should be provided; and
  - (ii) adequate provision of sanitary fitments should be provided for the proposed use; and
- (c) further detailed comments to be given at plan submission stage.

### **Traffic Aspect**

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

having reviewed the applicant’s submission and the public comments, she has no adverse comment on the application.

## **Fire Safety**

### 9.1.4 Comments of the Director of Fire Services (D of FS):

- (a) he has no in-principle objection to the application subject to:
  - (i) fire service installations and equipment 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; and
  - (ii) means of escape completely separated from the industrial portion is available for subject unit.
- (b) the subject industrial 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. 25D. The use under application should be counted up to the aggregate commercial floor area;
- (c) regarding matters related to fire resisting construction of the Premises, the applicant is advised 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 should be 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.

### 9.2 The following Government departments have no objection to/comment on the application:

- (a) Commissioner of Police; and
- (b) District Officer/Shu Tin, Home Affairs Department.

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

On 7.9.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two comments were received from the Chairperson of the Sha Tin Rural Committee and a group of local drivers objecting to the application (**Appendix IV**). Their views are summarized as follows:

- (a) the Premises is located within an industrial area which is currently not suitable to be converted for shop and services use. There is inadequate parking space in the area to support the proposed shop and services use; and
- (b) the proposed shop and services is anticipated to generate traffic and lead to potential traffic congestion and illegal parking problems.

## 11. Planning Considerations and Assessments

- 11.1 The planning intention of the “I” zone is to reserve land primarily for general industrial uses to ensure adequate supply of industrial floor space to meet demand from production-oriented industries. However, commercial uses in industrial buildings within the “I” zone may be permitted on application to the Board based on individual merits and the planning assessment criteria set out in the TPB PG-No. 25D.
- 11.2 The Premises is on the ground floor of an existing industrial building with direct access to Shing Wan Road. The ‘Shop and Services’ use under application is considered not incompatible with the industrial and industrial-related uses in the subject industrial building and the surrounding developments. Similar applications for shop and services use have been approved on the ground floor of the other industrial building nearby (**Plan A-2** and **Appendix III**).
- 11.3 The subject industrial building is subject to a maximum permissible limit of 460m<sup>2</sup> for aggregate commercial floor area on the ground floor. Currently there is no valid approved application for commercial uses on the ground floor of the subject building. The aggregate commercial floor area will be 448m<sup>2</sup> if the floor area of the Premises is included, which is within the maximum permissible limit of 460m<sup>2</sup>. D of FS has no in-principle objection to the application subject to approval conditions on provision of fire service installations.
- 11.4 The ‘Shop and Services’ use under application generally complies with the relevant considerations set out in the TPB PG-No. 25D including the fire safety and traffic aspects. Relevant Government departments, including BD, TD and HKPF have no objection to or no adverse comment on the application.
- 11.5 The previous application (No. A/ST/873) submitted by the same applicant for the same use was approved with conditions by the Committee in 2015 on a temporary basis for a period of three years. The approval condition related to the submission and implementation of fire safety measures has been complied with. The planning permission expired in September 2018. There is no change in planning circumstances since the approval of the previous application.
- 11.6 A temporary approval of three years is recommended in order not to jeopardise the long term planning intention of industrial use for the Premises and to allow the Committee to monitor the supply and demand of industrial floor space in the area.
- 11.7 Two public comments were received objecting to the application on the grounds of adverse traffic impact, potential traffic congestion and illegal parking issues. In this regard, the planning assessment and comments of Government departments above are relevant.

**12. Planning Department's Views**

12.1 Based on the assessment made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department has no objection to the application on a temporary basis for a period of three years.

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 three years until 19.10.2021. The following approval conditions and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission and implementation of the fire safety measures within 6 months from the date of the approval to the satisfaction of the Director of Fire Services or of the Board by 19.4.2019;
- (b) if the above planning 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 V**.

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), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

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.



**14. Attachments**

Appendix I	Application form received on 30.8.2018
Appendix Ia	FI received on 12.9.2018 clarifying the breakdown of floor area
Appendix Ib	FI received on 10.10.2018 enclosing a replacement page of the application form
Appendix II	Previous application at the Premises
Appendix III	Similar applications for 'Shop and Services' uses at G/F of Transport City Building
Appendix IV	Public comments
Appendix V	Recommended advisory clauses
Drawing A-1	Floor Plan
Drawing A-2	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3a to A-3b	Site Photos

**PLANNING DEPARTMENT  
OCTOBER 2018**