

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/H20/197

<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>	About 21.981m ²
<u>Lease</u>	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
<u>Plan</u>	Approved Chai Wan Outline Zoning Plan (OZP) No. S/H20/25
<u>Zoning</u>	“Other Specified Uses” annotated “Business” (“OU(B)”) <ul style="list-style-type: none"> - Restricted to a maximum plot ratio (PR) of 12 and a maximum building height of 120mPD, or the PR 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 for using part of workshop 5 (the Premises), G/F of an existing industrial building, the Cheung Tat Centre (the subject building) for ‘Shop and Services’ use. According to the Notes of the OZP, ‘Shop and Services’ use other than motor-vehicle showroom on ground floor and service trades requires planning permission from the Town Planning Board (the Board) for an industrial or industrial-office (I-O) building within the “OU(B)” zone.
- 1.2 The Premises, with a total floor area of about 21.981m², is located on the G/F with access from Chui Hang Street. The Premises is currently used for the applied use without valid planning permission.
- 1.3 In support of the application, the applicant has submitted the application form with attachments (**Appendix I**) which was received on 8.2.2022. The floor plans of the Premises submitted by the applicant are at **Drawings A-1 to A-3**.
- 1.4 In view of the situation of COVID-19 and the special work arrangement for

government departments announced by the Government, the Metro Planning Committee (the Committee), on 1.4.2022, agreed to defer making a decision on the application and 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 Part 10 of the application form at **Appendix I**. They are summarised as follows:

- (a) The applicant would like to use the Premises for selling rehabilitation products which would bring convenience to nearby elderly and people with rehabilitation needs;
- (b) the applied use 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 use would be from 9 a.m. to 7 p.m. from Monday to Sunday, including public holidays.

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) is 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 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 Applications**

- 5.1 The Premises is the subject of three previous planning applications (Nos. A/H20/57, 173 and 181) covering the entire workshop 5 for bank and temporary shop & services use (retail shop and photographic studio) approved with conditions by the Committee of the Board between 1993 and 2014..
- 5.2 Application No. A/H20/57 for a proposed bank was submitted when the site was zoned “Industrial” on the Chai Wan OZP. It was approved with conditions by 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. The two applications were approved with conditions by the Committee on 3.6.2011 and 3.1.2014 respectively. However, both planning permissions lapsed on 3.6.2012 and 3.1.2016 respectively.

6. **Similar Applications**

- 6.1 There were 20 similar applications for shop and services use on the ground floor of the subject building. Other than the application (No. A/H20/100) for restaurant use which was rejected by the Committee on 14.4.2000 for reasons of fire safety concern and setting an undesirable precedent, all other 19 applications were approved by the Committee.
- 6.2 Details of the 19 approved similar applications together with the three previous applications (22 applications in total), are at **Appendix II**.
- 6.3 Based on the valid planning applications at **Appendix II**, the aggregate commercial floor area of shop and services use on the G/F of the subject building is 237.06m². If the subject application (with a floor area of 21.981m²)

is approved, the aggregate commercial floor area will be 259.041m², which 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-3 and photos on Plans A-4 and A-5)

7.1 The Premises is:

- (a) located at the south-western part of the subject building on ground floor fronting Chui Hang Street; and
- (b) currently used for the applied use without valid planning permission.

7.2 The subject building is:

- (a) a 25-storey industrial building equipped with sprinkler system; and
- (b) occupied for various uses and major uses by floor are summarised below:

Floor	Current Uses
G/F	Application premises (i.e. part of workshop 5) , lobby and entrance to car park, estate agencies ^[1] , Chinese medical clinic ^[1] , laundry ^[1] , fitting-out works company, small-scale printing and Xerox service company, hardware retail stores ^[1] , clothes shop and money exchange ^[1]
1/F & 2/F	Car park and loading/unloading area
3/F – 24/F	Art and graphic studio, non-polluting industrial use, office and warehouse

^[1] Covered by valid planning permissions Nos. A/H20/132, 155, 179 and 196

7.3 The surrounding areas have the following characteristics:

- (a) developments to the north and south along both sides of Lee Chung Street and Cheung Lee Street are predominantly industrial buildings zoned “OU(B)” on the OZP;
- (b) a public housing estate (Wah Ha Estate) is located to the east on the opposite side of Chui Hang Street;
- (c) the ground floors of the nearby industrial buildings are mainly used as car-repairing/recycling workshops, motor vehicle showroom, retail shop and bank; 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 the concerned leases; and
- (b) if planning approval from the Board is given, temporary waiver under the concerned leases would be required to permit the commercial/ retail use. However, there is no guarantee that such waiver 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 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 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 460m² in accordance with TPB PG-No. 22D. The applied use should be counted towards 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” if the application is approved.

Buildings 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 uses/alterations and additions works at the Premises 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 Premises and the remaining portion of the Premises in accordance with regulation 41(1) of the Building (Planning) Regulation (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; and
 - (iii) the Premises should be separated from the remaining portion of the subject building by fire barriers of adequate fire resistance rating pursuant to section 35 of the Building (Construction) Regulation 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 Premises under the BO. Enforcement action may be taken by the BA 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.

Traffic Aspect

9.1.4 Comments of the Commissioner for Transport:

no objection in principle to the application from traffic engineering viewpoint.

9.1.5 Comments of the Commissioner of Police (C of P):

- (a) no comment on the application from regional traffic police perspective at this stage; and
- (b) it is advised that the proposal should not cause adverse traffic obstruction in or beyond the site of works and each Temporary Traffic Arrangement involving works on public carriageway and/ or footpath, if any, has to be submitted to Police (Road Management Office) and other stakeholders for detailed comment prior its implementation.

Environment Aspect

9.1.6 Comments of the Director of Environmental Protection:

no comment on the application from environmental planning perspective.

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 (DSD); and
- (d) District Officer (Eastern), Home Affairs Department.

10. Public Comment Received During Statutory Publication Period

On 15.2.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 8.3.2022, no public comment was received.

11. Planning Considerations and Assessment

11.1 The application is to seek planning permission for ‘Shop and Services’ use at the Premises. The applied use at the Premises 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 on 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 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 6.3 above, if the subject application (with a floor area of 21.981m²) is approved, the aggregate commercial floor area will be 259.041m², which is still within the maximum permissible limit of 460m² for an industrial building with sprinkler system. The Premises has direct access along the frontage of the subject building abutting 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. Relevant government departments consulted, including Transport Department, Environmental Protection Department and DSD have no adverse comment on the application.
- 11.4 There are a total of 19 similar applications approved on the ground floor of the subject building for 'shop and services' use. The Premises itself is also the subject of three previous applications (Nos. A/H20/57, 173 and 181) which were all approved with conditions by the Committee between 1993 and 2014. There is no change in planning circumstances or in the characteristics of the surrounding areas since the last approval granted in 2014. Approval of the current application is in line with the Committee's previous decisions.
- 11.5 There is no public comment on the application received during the first three weeks of the statutory public inspection period.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, no time clause for commencement for the development is proposed as the shop and services use under the application is already in operation. 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 2.12.2022; 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 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.
- 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 8.2.2022
Appendix II	Approved Applications for Shop and Services use on the Ground Floor of the subject Building
Appendix III	Recommended advisory clauses
Drawings A-1 to A-3	Plans 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, Cheung Tat Centre
Plans A-4 and A-5	Site photos

**PLANNING DEPARTMENT
JUNE 2022**