

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TW/534

- Applicant** : Mr. TSANG Chiu-yin
- Premises** : Workshop No. 3, 20/F, Sunwise Industrial Building, 16-26 Wang Wo Tsai Street, Tsuen Wan
- Total Floor Area of Premises** : About 64m²
- Lease** : D.D. 443 Lot No. 459 RP
(a) governed by New Grant No. 3857 with the lease term expiring on 30.6.2047; and
(b) for industrial purposes only
- Plan** : Approved Tsuen Wan Outline Zoning Plan (OZP) No. S/TW/35
- Zoning** : “Comprehensive Development Area (5)” (“CDA(5)”)
(a) maximum plot ratio (PR) of 5.0, of which a minimum PR of 4.5 shall be for domestic use; and
(b) maximum building height (BH) of 100 metres above Principal Datum
- Application** : Office (Audio-visual Recording Studio)

1. The Proposal

- 1.1 The applicant seeks planning permission to use Workshop No. 3, 20/F, Sunwise Industrial Building (the Premises) for the ‘Office (Audio-visual Recording Studio)’ purpose (**Plan A-1**). The subject building falls within an area zoned “CDA(5)” on the approved Tsuen Wan OZP No. S/TW/35. According to the Notes of the OZP for “CDA(5)” zone, ‘Office’ is a Column 2 use, which requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises has a total floor area of about 64m² and is currently used for an audio-visual recording studio without valid planning permission. The floor plans of the Premises are shown on **Drawings A-1** and **A-2**.

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

- (a) Application form received on 25.7.2022 and (**Appendix I**) supplementary information received on 1.8.2022 and 2.8.2022 to provide replacement pages of the application form and floor plan
- (b) Further Information (FI) received on 2.9.2022 in response (**Appendix Ia**) to departmental comments*
*[*Accepted and exempted from the publication and recounting requirements.]*

2. Justifications from the Applicant

The justifications put forth by the applicant are detailed in the application form and FI in **Appendices I** and **Ia**. They are summarized as follows:

- (a) the subject industrial building is surrounded by other industrial buildings in the Tsuen Wan East Industrial Area (TWEIA). Industrial uses involving multi-media production, creative industries etc. are active in the area. The 'Office (Audio-visual Recording Studio)' use is considered compatible with the area;
- (b) the building was previously zoned "Industrial" ("I"), under which the applied use is always permitted;
- (c) noise insulation has been implemented at the Premises. The alteration and addition works for the applied use within the Premises would not involve any change in the existing gross floor area, PR and BH of the existing building;
- (d) the applied use would not generate additional trips to/from the Premises and the loading/unloading activities would be confined within the loading/unloading area of the subject building; and
- (e) there is no known implementation programme for comprehensive redevelopment at the subject "CDA(5)" zone. Approval of the application would not jeopardize the long term planning intention of the zone for residential use.

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 (TPB PG-No. 18A) for "Submission of Master Layout Plan (MLP) under section 4A(2) of the Town Planning Ordinance"

promulgated in September 2003 is not applicable to this application. According to the Guidelines, submission of MLP and supporting information including various detailed assessments is not required for an application for change of use in an existing building within a “CDA” zone (irrespective of whether building works are undertaken) before completion of comprehensive development in the “CDA” zone, unless it is considered necessary by relevant Government departments.

5. Background

The subject building was completed in 1991. At that time, the subject building was zoned “I” on the draft Tsuen Wan OZP No. S/TW/5. On 17.9.2010, the Board endorsed in-principle the findings and recommendations of the Area Assessments 2009 of Industrial Land in the Territory (the Area Assessments 2009) (TPB Paper No. 8630) undertaken by the Planning Department (PlanD). The Area Assessments 2009 recommended rezoning the northern part of TWEIA mainly to “CDA” to facilitate comprehensive residential development with commercial facilities and open space provision. Subsequently, the draft Tsuen Wan OZP No. S/TW/27 incorporated the amendments to rezone the northern part of TWEIA from “Industrial” (“I”) to “CDA(2)”¹, “CDA(3)”², “CDA(4)”, “CDA(5)” (covering the Site), “CDA(6)”, “Commercial (5)” (“C(5)”), “Open Space” and areas shown as ‘Road’ and was approved on 4.10.2011. Since then, the “CDA(5)” zoning for the Site remains unchanged. During the CDA review for the years 2019/21, the Metro Planning Committee (the Committee) agreed on 28.5.2021 that more time should be allowed to observe the progress of the “CDA” developments.

6. Previous Application

There is no previous application at the Site.

7. Similar Application

There is no similar application for ‘Office’ use in industrial buildings within “CDA” zones on the Tsuen Wan OZP.

8. The Premises and Its Surrounding Areas (Plans A-1 and A-2, and Site Photos on Plans A-3 to A-4)

8.1 The Premises is:

¹ The site zoned “CDA(2)” was developed as Sheung Chui Court and portion of Wang Wo Tsai Street Garden and rezoned as “R(A)19” and “O” respectively on the draft Tsuen Wan OZP No. A/TW/34 published on 26.2.2021.

² The site zoned “CDA(3)” is subject to a planning application No. A/TW/527 for Proposed Comprehensive Residential (Flat) and Social Welfare Facility (Child Care Centre) Development with Minor Relaxation of Maximum PR and BH Restrictions (Amendments to Approved Master Layout Plan), which was approved by the Committee on 24.12.2021.

- (a) currently used for an audio-visual recording studio without valid planning permission; and
- (b) served by five lifts (three of them are cargo lifts).

8.2 The subject building:

- (a) is a 26-storey industrial building with Occupation Permit (OP) issued in 1991. According to the OP, G/F was mainly for entrance lift lobby, carpark, loading/unloading area and workshops; and 1/F to 25/F were for workshops;
- (b) is bounded by Wang Wo Tsai Street to the northeast with vehicular access to this road. It is well served by various modes of public transport including bus and public light bus. MTR Tsuen Wan Station and Tai Wo Hau Station are both about 680m to the northwest and northeast respectively; and
- (c) accommodates the following uses:

Floor	Existing Uses
G/F	Carpark, loading/unloading area and recyclable collection centre [#]
1/F – 25/F	The Premises , industrial-related offices/trading firms, workshops and warehouses

[#] While recyclable collection centre is a Column 2 use under the prevailing “CDA(5)” zone, it was always permitted under the previous “I” zone.

8.3 The surrounding areas have the following characteristics:

- (a) is located at the periphery of TWEIA which is an established industrial area with buildings mostly designed for industrial uses;
- (b) to the immediate west, southwest and south within the same “CDA(5)” zone are five industrial buildings. To the immediate southeast are mainly industrial buildings in “CDA(6)” zone;
- (c) to the northeast across Wang Wo Tsai Street is the “CDA(3)” zone, in which one of the four industrial buildings, namely Edward Wong Industrial Centre, has been demolished for a comprehensive residential cum social welfare facility development (see footnote 2 on page 3); and
- (d) to the east across Wang Wo Tsai Street is Wang Wo Tsai Street Garden, zoned “Open Space”.

9. Planning Intention

The “CDA(5)” zoning is intended for comprehensive development/redevelopment of the area primarily for residential use with the provision of commercial facilities, open space and other supporting facilities. The zoning is to facilitate appropriate planning

control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure, visual impact, air ventilation and other constraints.

10. Comments from Relevant Government Departments

- 10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

- 10.1.1 Comments of the District Lands Officer/Tsuen Wan, Lands Department (DLO/TW&KT, LandsD):

- (a) the Premises falls within D.D. 443 Lot No. 459 RP (the Lot). The Lot is governed by New Grant No. 3857 with the lease term expiring on 30.6.2047. The Lot shall be used for industrial purposes only. No building shall be erected on the Lot except a factory, ancillary offices and quarters for persons essential to the safety and security of the building, the number of such quarters and persons to be subject to the approval of the Commissioner of Labour;
- (b) according to the announcement made by the Development Bureau on 1.2.2019 on “Relaxation of Waiver Application for Existing Industrial Buildings” (the Announcement), the Government would permit certain uses (as covered in the Announcement) on a time-limited basis for initially 5 years from 1.2.2019 to 31.1.2024 to operate at premises within existing industrial buildings without the need for making separate waiver applications to LandsD and paying waiver fees, provided that such uses are permitted under the land use zoning of the sites concerned on the relevant OZPs under Column 1 uses (always permitted and requiring no planning application). Therefore, the said permission in the Announcement does not apply to the subject Premises as the ‘Office (Audio-visual Recording Studio)’ use is a Column 2 use under the subject “CDA(5)” zone which requires the planning permission from the Board; and
- (c) the ‘Office (Audio-visual Recording Studio)’ use is not permissible under the lease conditions. If planning permission is given by the Board, the owner of the Premises will need to apply to LandsD for a temporary waiver for implementation of the ‘Office (Audio-visual Recording Studio)’ use. The applied use will only be considered upon the receipt of the valid application from the owner of the Premises. There is no guarantee that the application, if received by LandsD, will be approved and his office reserves comment on such. The application will be considered by LandsD acting in the capacity

as the landlord at its sole discretion. In the event that the application is approved, it will be subject to such terms and conditions as the Government shall deem fit to do so, including, among others, charging of waiver fee and administrative fee.

Environment

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

- (a) no objection to the application;
- (b) the applied use locates at a premises of an existing building. The applicant states in the application document that noise insulation has been implemented at and for the applied use;
- (c) having checked the recent three year complaints record, there is no substantive complaint against the subject office (audio-visual recording studio);
- (d) the public comments received are from other users of the same industrial building. These users are considered as 'Industrial Use' and not noise sensitive receivers (NSRs) defined under "Technical Memorandum for the Assessment of Noise from Places Other than Domestic Premises, Public Places or Construction Sites (IND-TM)"; and
- (e) as the applicant has committed to implement proper noise insulation, insurmountable noise problem is not anticipated. In case there are excessive noise emitted from the subject studio and affecting NSRs, it will still be under the control of Section 13 of Noise Control Ordinance and following the requirements and procedures stipulated in the IND-TM.

Fire Safety

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

- (a) no in-principle objection to the application subject to fire service installations and equipment being provided to the satisfaction of D of FS;
- (b) detailed fire services requirements will be formulated upon receipt of formal submission of building plans; and
- (c) 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" and submit relevant document to the Board if the application is approved.

Building Matters

10.1.4 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) no objection to the application;
- (b) before any new building works are to be carried out on the application premises, prior approval and consent of the Building Authority should be obtained unless they are exempted building works or commenced under the simplified requirement under the Minor Works Control System. Otherwise they are Unauthorised Building Works. The applicant is advised to seek professional advice from Authorised Person for the change in use/carrying out any buildings works, if any, including the Use Classification of the Premises under Code of Practice for Fire Safety in Buildings 2011 (FS Code);
- (c) any proposed building works should comply with the prevailing requirements under the Buildings Ordinance and allied regulations and Code of Practices;
- (d) adequate natural lighting and ventilation should be provided in accordance with Building (Planning) Regulation 30 and 31 if the applied use is considered as office;
- (e) adequate fire separation should be provided in accordance with the requirements set out in the FS Code; and
- (f) detailed checking will be made at plan submission stage.

10.2 The following Government departments have no comments on or no objection to the application:

- (a) Commissioner for Transport (C for T);
- (b) Director-General of Trade and Industry;
- (c) Chief Highway Engineer/New Territories West, Highways Department;
- (d) Chief Engineer/Construction, Water Supplies Department;
- (e) Chief Engineer/Mainland South, Drainage Services Department;
- (f) Project Manager (West), Civil Engineering and Development Department;
- (g) Commissioner of Police (C of P); and
- (h) District Officer (Tsuen Wan), Home Affairs Department.

11. Public Comments Received During the Statutory Publication Period

- 11.1 During the statutory public inspection period, a total of six public comments were received (**Appendix II**), including three opposing comments and three expressing concerns on the application. Among the six comments, one

opposing comment was submitted by the Customer Service Office of the subject building and the remaining comments were mainly submitted by individuals.

11.2 The objecting grounds and major concerns are summarised as follows:

- (a) the subject industrial building is restricted for industrial purposes only. The applied use is not compatible with the uses of the building;
- (b) the applied use increases visitors and causes security issue and noise nuisances to other tenants of the building;
- (c) the building is not designed with noise insulation and the Premises has been complained by other tenants regarding the noise nuisance; and
- (d) the applied use will increase the fire risk as the fire service installations in the building have not been upgraded for uses other than industrial uses.

12. Planning Considerations and Assessments

12.1 The applicant seeks planning permission to use the Premises for the 'Office (Audio-visual Recording Studio)' purpose within "CDA(5)" zone. Although the "CDA(5)" zone is intended for a comprehensive development/redevelopment of the area primarily for residential use, application for change of use in an existing building before completion of the comprehensive development may be considered by the Board. Since the applied use would only exist during the lifetime of the subject building, it would not jeopardise the long term planning intention of the "CDA(5)" zone.

12.2 In view of its location within an existing industrial building, the applied use in the Premises is considered not incompatible with the other uses within the building. According to the applicant, noise insulation has been implemented at the Premises and the applied use would not generate additional trips and the loading/unloading activities would be confined to the loading/unloading area within the subject building. DEP confirmed that industrial uses of the same industrial building was not considered as NSRs and there was no substantive complaints against the applied use. C of P and C for T have no objection/comment to the application. Other relevant Government departments including D of FS also have no objection to the application subject to the imposition of approval condition as set out in paragraph 13.2 below.

12.3 Regarding the public comments, the planning assessments above and departmental comments in paragraph 10 above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above, the PlanD has no objection to the application.
- 13.2 Should the Committee decide to approve the application, no time clause on commencement is proposed as the 'Office (Audio-visual Recording Studio)' use under application is already in operation. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the provision of fire service installations and equipment in the subject premises within 6 months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 23.3.2023; and
- (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 III**.

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

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application form received on 25.7.2022 and supplementary information received on 1.8.2022 and 2.8.2022
Appendix Ia	FI received on 2.9.2022
Appendix II	Public comments
Appendix III	Recommended advisory clauses

Drawings A-1 and A-2	Floor plans
Plans A-1	Location plan
Plan A-2	Site plan
Plans A-3 and A-4	Site photos

**PLANNING DEPARTMENT
SEPTEMBER 2022**