

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL**  
**FOR TEMPORARY USE**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/ST/1001**

<b><u>Applicant</u></b>	: HK JEBN Assets Management Limited represented by RHL Surveyors Limited
<b><u>Premises</u></b>	: Portion of Ground Floor, HK JEBN Group Centre, 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>	: Sha Tin Town Lot (STTL) No. 39 (New Grant No. 11247) - Restricted to industrial and/or warehouse purposes or both excluding offensive trade
<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>	: Renewal of Planning Approval for Temporary Shop and Services for a period of 3 years

**1. The Proposal**

- 1.1 On 10.8.2021, the applicant sought renewal of the planning permission under application No. A/ST/962 for temporary ‘Shop and Services’ use for a period of three years at the application premises (the Premises) (**Plan A-1**). 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 Centre at 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 the previous application No. A/ST/962, submitted by the same applicant for the same use, approved on 19.10.2018 by the Rural and New Town Planning Committee (the Committee) of the Board on a temporary basis for three years until 19.10.2021. The approval condition on submission and implementation of fire safety measures has been complied with.
- 1.3 In support of the application, the applicant has submitted the application form

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

and attachments (**Appendix I**).

- 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 10 of the application form at **Appendix I**. They can be summarized as follows:

- (a) the ground floors of the adjacent industrial buildings are mainly used for industrial purpose with some used for commercial purpose, such as cycling product shops, metalware shops, property agencies and other commercial uses. The applied use is compatible with the existing uses in the area;
- (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 mainly local people living and working in the area. As the area is industrial in nature, shoppers coming from other districts are unlikely. There are existing loading and unloading facilities in the subject building. The anticipated increase in traffic is minimal; and
- (d) With the design of the whole ground floor of the subject building to industrial building standard, the requirements of floor loading and fireproof period of the proposed commercial use are satisfied as the standards for commercial use are less stringent than those for industrial 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**

- 4.1 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.

4.2 The 'Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development' (TPB PG-No. 34D) is relevant to this application. The relevant assessment criteria are summarized as follows:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
- (d) whether the approval period sought is reasonable; and
- (e) any other relevant considerations.

Under normal circumstances, the approval period for renewal should not be longer than the original validity period of the temporary approval. In general, the Board is unlikely to grant an approval period exceeding three years unless there are strong justifications and the period is allowed for under the relevant statutory plans. Depending on the circumstances of each case, the Board could determine the approval period, which may be shorter than the time under request.

## 5. **Previous Application**

The Premises is the subject of two previous applications (Nos. A/ST/873 and A/ST/962) submitted by the same applicant for the same use (**Plan A-2** and **Appendix III**). The application Nos. A/ST/873 and A/ST/962 were approved with conditions by the Committee on 4.9.2015 and 19.10.2018 respectively 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 of the previous application No. A/ST/962 on fire safety measures was complied with. The ‘Shop and Services’ use at the premises is covered by valid planning permission until 19.10.2021.

## 6. **Similar Application**

There are two similar applications for commercial uses on the ground floor of an industrial building in the vicinity within the same “I” zone (**Plan A-2** and **Appendix IV**). 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 Site and its Surrounding Areas (Plans A-1 to A-3b)**

7.1 The Premises is:

- (a) located on G/F of HK JEBN Group Centre; 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	Application premises, 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 planning intention of the “I” zone in Tai Wai is 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 summarized as follows:

### **Land Administration**

- 9.1.1 Comments of the District Lands Officer/Shia Tin, Lands Department (DLO/ST, LandsD):

- (a) the subject premises is situated on STTL No. 39 and is governed under New Grant No. 11247 (the Grant). Under the Grant, the lot shall not be used for any purpose other than industrial or warehouse purposes or both excluding offensive trade. A Temporary Waiver was granted by this office to allow the use of the subject premises with an internal floor area of about 413m<sup>2</sup> for ‘Shop and Services’ purposes with a fixed term of three years certain commencing on 1.5.2017 and thereafter quarterly; and
- (b) if the Board approves the subject application with area of about 448m<sup>2</sup>, the term of the above waiver may be revised or a new waiver application would be required, unless the applicant ensures that the internal floor area of the subject application will not exceed about 413m<sup>2</sup>.

### **Building Matters**

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

- (a) she has no objection in principle 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 door with individual and total widths complying with the 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 will be given at plan submission stage.

### **Traffic Aspect**

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

- (a) she has no in-principle objection to the application from traffic engineering point of view.

### **Licensing Matters**

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

- (a) there is one valid food factory licence in respect of the Premises;
- (b) the operation of any business should not cause any obstruction or environmental nuisance in the vicinity; and
- (c) her detailed comments on the application is at **Appendix II**.

### **Fire Safety**

9.1.5 Comments of the Director of Fire Services (D for FS):

- (a) he has no in-principle objection to the renewal application provided that the existing fire service installations implemented at the Premises being maintained in efficient working order at all times; and
- (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 applied use under application should be counted up to the aggregate commercial floor area.

9.2 The Commissioner of Police (C of P) and the District Officer/Shia Tin, Home Affairs Department (DO/ST, HAD) have no specific comment on the application.

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

On 17.8.2021, the application was published for public inspection. During the statutory public inspection period, no comment was received.

## **11. Planning Considerations and Assessments**

11.1 The Premises is located on the ground floor of an existing industrial building

with direct access to Shing Wan Road. This is a renewal application to continue the existing retail shop and fast food counter at the Premises, which was approved with conditions on a temporary basis for three years from 19.10.2018 to 19.10.2021 under application No. A/ST/962. The applicant has complied with all the approval conditions of the previously approved application mainly related to the submission and implementation of fire safety measures to the satisfaction of D of FS.

- 11.2 The current application is the same as the previously approved application in terms of use and area of the Premises and there has been no material change in planning circumstances since the previous temporary approval was granted. There is no adverse planning implication arising from the renewal of the planning approval. The approval period of three years sought is also not longer than the original validity period of the temporary approval and is considered reasonable to allow the Committee to monitor the supply and demand of industrial floor space in the area. As such, the proposed renewal application complies with the TPB PG-No. 34D for renewal of planning approval.
- 11.3 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 previously been approved on the ground floor of the other industrial building nearby (**Plan A-2** and **Appendix IV**).
- 11.4 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 other valid approved application for commercial use on the ground floor of the subject building apart from the one covering the subject application premises. The aggregate commercial floor area will remain as 448m<sup>2</sup> should this renewal application be approved and is within the maximum permissible limit of 460m<sup>2</sup>. D of FS has no in-principle objection to the application provided that the existing fire service installations implemented at the Premises are maintained in efficient working order at all times.
- 11.5 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 D of FS, CBS/HKE&H, BD, C for T and C of P have no objection to or no adverse comment on the application.
- 11.6 No public comment has been received during the statutory public inspection period.

## 12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 above, 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 on a temporary basis for a period of 3 years, and be renewed from 20.10.2021 to 19.10.2024. The following condition of approval

and advisory clauses are also suggested for Members' reference:

Approval Condition

The existing fire service installations implemented at the application premises should be maintained in efficient working order at all times.

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 the 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 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**

<b>Appendix I</b>	Application form received on 10.8.2021
<b>Appendix II</b>	DFEH's detailed comments on the application
<b>Appendix III</b>	Previous applications
<b>Appendix IV</b>	Similar applications
<b>Appendix V</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Floor Plan
<b>Drawing A-2</b>	Layout Plan
<b>Plans A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plans A-3a and A-3b</b>	Site Photos