

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

**APPLICATION NO. A/H15/277**

<b><u>Applicant</u></b>	Ms. Siu Yin
<b><u>Premises</u></b>	Room 1-2, 7/F, Goodview Centre, 12 Wu Pak Street, Aberdeen
<b><u>Total Floor Area</u></b>	About 71 m <sup>2</sup>
<b><u>Lease</u></b>	Aberdeen Inland Lot (AIL) 84s. A & AIL 84 s.B RP  - Unrestricted subject to offensive trade clause
<b><u>Plan</u></b>	Approved Aberdeen & Ap Lei Chau Outline Zoning Plan (OZP) No. S/H15/33
<b><u>Zoning</u></b>	“Residential (Group A)2” (“R(A)2”)  - Maximum building height (BH) restriction of 100mPD would be permitted for sites with area of 400m <sup>2</sup> or more
<b><u>Application</u></b>	Massage Establishment

**1. The Proposal**

- 1.1 The applicant seeks planning permission for ‘Massage Establishment’ use at the 7/F floor of the existing 23-storey Goodview Centre (the Premises), at 12 Wu Pak Street, Aberdeen (**Plan A-1**).
- 1.2 According to the Notes of the OZP for the “R(A)2” zone, ‘Commercial Bathhouse/Massage Establishment’ use is under Column 2 which requires planning permission from the Town Planning Board (the Board). The Premises is currently under renovation works. 8 partitioned massage rooms will be provided at the Premises (**Drawing A-1**).
- 1.3 In support of the application, the applicant has submitted the following documents:
  - (a) Application form received on 11.10.2018 (**Appendix I**)

- (b) Further information dated 31.10.2018 providing **(Appendix Ia)** clarification on no overnight stay of customers nor any provision of beverage from the massage establishment *(accepted and exempted from publication and recounting requirements)*

## 2. **Reasons and Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and further information (**Appendices I to Ia**) which are summarized as follows:

- (a) The massage establishment aims to serve the public;
- (b) the operation hours of the massage establishment will be 10:00 a.m. to 11:30 p.m. from Mondays to Sundays with no operation on Chinese New Year (i.e. first week of the Chinese Lunar New Year);
- (c) no visitor is allowed to stay overnight at the Premises; and
- (d) the operator will not offer any beverage services except water.

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

The applicant is not a “current land owner” 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 giving notification to the owner of the Premises by local recorded delivery mail. Detailed information would be deposited at the meeting for Members’ inspection.

## 4. **Town Planning Board Guidelines**

Town Planning Board Guidelines for ‘Application for Commercial Bathhouse and Massage Establishment under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 14B) is relevant to this application. The relevant assessment criteria are as follows:

- (a) the proposed massage establishment will normally not be permitted within a residential neighbourhood;
- (b) the proposed massage establishment should be located within a commercial building or the non-domestic portion of a composite commercial/ residential building;
- (c) the proposed use should not be incompatible with other uses within the same building and consideration will normally be given only to the uses permitted in the Occupation Permit issue by the Building Authority;
- (d) the views of local residents on the proposed massage establishment will be taken into account;

- (e) the Fire Services Department and the Buildings Department should be satisfied with the proposals to comply with the fire safety requirements for the proposed massage establishment in respect of the provision of fire service installations and means of escape, etc.; and
- (f) all other statutory or non-statutory requirements of relevant Government departments must be met.

## 5. **Previous Application**

There is no previous application at the Premises.

## 6. **Similar Application**

There is one similar application (No. A/H15/160) for 'Massage Establishment' within in a composite commercial/residential building in "R(A)" zone in the planning scheme area of the Aberdeen & Ap Lei Chau OZP (**Plan A-1**). The application was rejected by the Metro Planning Committee (the Committee) on 6.12.1996 on the grounds that it does not meet the requirements of TPB PG-No. 14 in that it is not compatible with the residential uses in the same building and will cause inconvenience and disturbance there, it would be more suitable for commercial building where the adverse impacts on adjoining residential units can be minimized and there are strong objection from residents of Ap Lei Chau Centre. The site was zoned "Commercial/Residential" on the OZP when the application was considered by the Committee.

## 7. **The Premises and Its Surrounding Areas (Plans A-1, A-2 and Photos on Plans A-3 and A-4)**

### 7.1 The Premises:

- (a) occupies the entire 7<sup>th</sup> floor of Goodview Centre (the subject building);
- (b) is previously used for a message establishment but currently under renovation; and
- (c) is accessible from the main entrance facing the junction of Wu Pak Street and Tung Sing Road by way of a lift and 2 staircases in the lobby, as well as a separate staircase at the rear of the subject building which serve the whole building (**Plan A-3**).

7.2 According to the Occupation Permit issued by the Building Authority, the subject building is approved for non-domestic uses including shops and offices. The existing uses of the subject building are summarized as follows:

<b>Floor</b>	<b>Existing Uses</b>
G/F	Lobby and Eating Places
1/F-6/F	Shop and Services, Tutorial Schools, Language Institute
7/F	Massage Establishment (the Premises)
8/F-22/F	Office (9/F, 12/F & 21/F), Dance School (10/F), Tutorial Schools (11/F, 13/F, 15/F, 17/F, 19/F & 22/F), Religious

	Institution (14/F & 21/F), Shop and Services (8/F, 12/F-13/F, 16/F, 20/F & 22/F), Locked/ Vacant Unit (18/F -19/F)
--	--

7.3 The surrounding areas have the following characteristics:

- (a) predominantly occupied by residential buildings with retail shops on the G/F or in podium;
- (b) to the east across Tung Sing Road is a commercial building namely Onshine Commercial Building; and
- (c) the area is well served by public transport including buses and public light buses.

## 8. **Planning Intention**

8.1 The planning intention of the “R(A)2” 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.

## 9. **Comments from Relevant Government Departments**

9.1 The following government departments have been consulted and their views on the application and the public comments received are summarized as follows:

### **Land Administration**

9.1.1 Comments of the District Lands Officer/ Hong Kong West & South, Lands Department (DLO/HKW&S, LandsD):

He has no comment on the application as the massage establishment does not appear to fall within any of the trades of business named in the offensive trade provision in the relevant government lease.

### **Building Matters**

9.1.2 Comments of the Chief Building Surveyor/ Hong Kong West, Buildings Department (CBS/HKW, BD):

- (a) The permitted use of the Premises is “office for non-domestic use” under Occupation Permit (OP) No. H96/96; and
- (b) the proposed layout in the application does not tally with the latest approved plan from his record. Detailed comments on the proposal could only be made at formal building plans submission stage.

**Fire Safety**

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

- (a) He has no objection in principle to the massage establishment subject to fire service installations being provided to his satisfaction; and
- (b) detailed Fire Services requirements will be formulated upon receipt of formal submission of general building plans or referral from the licensing authority.

**Licensing**

## 9.1.4 Comments of the Commissioner of Police (C of P):

- (a) No comment on the application;
- (b) according to Police records, there was no criminal record or adverse finding related to the Premises were observed in the past 12 months. The applicant has clear criminal record;
- (c) the applicant is advised to first apply for a planning permission before submitting an application to the Police Licensing Office for a massage establishments licence; and
- (d) any person who wishes to conduct massage business shall obtain a massage establishments licence under Section 6 of Massage Establishment Ordinance, Cap. 266 from his department.

**Urban Design and Visual**

## 9.1.5 Comments of the Chief Architect/Central Management Division 2, Architectural Services Department (CA/CMD2, ArchSD):

It is noted that the application involves no changes to the building height and massing. In this regard, he would have no comment from architectural and visual impact point of view.

**District Officer's View**

## 9.1.6 Comments of the District Officer (Southern), Home Affairs Department (DO(S), HAD):

He understands that some objections to the proposal have been received. He has also learned from other sources that the Premises had once been occupied by a foot massage establishment and the police took actions against the operation of body massage business without a licence. Moreover, there are a number of education related institutes in the subject building.

## 9.2 The following government departments have no comment on the application:

- (a) Director of Environmental Protection (DEP);

- (b) Commissioner for Transport (C for T);
- (c) Chief Highway Engineer/Hong Kong, Highways Department (CHE/HK, HyD);
- (d) Chief Engineer/Hong Kong & Islands, Drainage Services Department (CE/HK&I, DSD);
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (f) Director of Electrical and Mechanical Services (DEMS).

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

On 19.10.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 9.11.2018, 7 public comments objecting to the application were received from a Southern District Council member and local stakeholders (**Appendix II**). The main grounds of objection are summarised below:

- (i) The massage establishment is considered not compatible with the residential neighbourhood and the subject building predominated by tutorial school, clinic and office uses. Additional pedestrian flow would cause nuisance to children and security issue in the local district;
- (ii) the subject building is served by only one lift. The massage establishment would generate additional lift traffic which places a burden on lift capacity. The lift failure will cause inconvenience to units in the higher floors;
- (iii) the sewage system of the subject building has been blocked several times causing extreme inconvenience to other occupiers. The massage establishment would cause concerns on sewage and waste disposal of the subject building; and
- (iv) concerns on fire safety of the subject building.

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

- 11.1 The current application is to use the Premises for a massage establishment. The assessment criteria of TPB PG-No. 14B, as set out in paragraph 4 above, are relevant to this application.
- 11.2 The Premises is located within an existing non-domestic building, which is mainly used for offices, shop and services as well as tutorial schools but without any residential use. According to the OP, the subject building is for non-domestic uses including shops and offices. Though the subject building is located within an area zoned "R(A)2" on the OZP, there are retail shops at the G/F or podium of residential buildings and a commercial building right across Tung Sing Road to the east of the subject building. Hence, the applied use is considered not incompatible with other non-domestic uses within the same building and with the surrounding developments. The application meets the assessment criteria (a), (b) and (c) of TPB PG-No.14B.
- 11.3 All relevant government departments including DSD, EPD, DFS and CBS/HKW, BD have no objection to or no adverse comments on the application. As advised by C of P, no complaint record at the Premises has been

observed in the past 12 months. The applicant is also required to apply for relevant license for the applied use. To ensure the compliance with fire safety requirements, however, an approval condition is recommended for the provision of fire services installations for the massage establishment under paragraph 12.2 below. Hence, the application meets the assessment criteria (e) and (f) of TPB PG-No.14B.

- 11.4 Compared with the similar application No. A/H15/160, which was rejected by the Committee, the subject building of the current application is an existing non-domestic building rather than a composite residential/commercial building. Besides, since there is no residential use within the subject building, the applied use will not cause inconvenience and disturbance to any residents even though the building is served only by a single lift.
- 11.5 Regarding the adverse public comments, the planning assessments above are relevant.

## **12. Planning Department's Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, PlanD 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 until 7.12.2022, 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 approval condition and advisory clauses are also suggested for Members' reference:

### **Approval condition**

the submission and implementation of fire services installations before the operation of the applied use to the satisfaction of the Director of Fire Services or of the Town Planning Board.

### **Advisory clauses**

The recommended advisory clause is attached at **Appendix III**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:
- (a) the proposed use is considered not compatible with the residential neighbourhood; and
  - (b) approval of the application would set an undesirable precedent for similar applications of massage establishment within "R(A)2" zone.

## **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 date when the validity of the permission should expire.
- 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**

<b>Appendix I</b>	Application form received on 11.10.2018
<b>Appendix Ia</b>	Further information dated 31.10.2018
<b>Appendix II</b>	Public Comments Received
<b>Appendix III</b>	Advisory Clause
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plans A-3 to A-5</b>	Site photos

**PLANNING DEPARTMENT  
DECEMBER 2018**