

MPC Paper No. A/K5/804A
For Consideration by the
Metro Planning Committee
on 16.8.2019

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K5/804

- Applicant** : Evangelical Free Church of China – Jachin Church represented by Vincent Lai Architects Ltd.
- Premises** : 1/F and 2/F, Florence Plaza, 23 Cheung Wah Street, Cheung Sha Wan, Kowloon
- Floor Area of Premises** : 1,824.874m²
- Lease** : (a) New Kowloon Inland Lot (NKIL) No. 6154
(b) Restricted for non-industrial (excluding godown, hotel, petrol filling station and services apartment) purposes subject to minimum gross floor area (GFA) of 6,600m² and anti-nuisance provisions
- Plan** : Approved Cheung Sha Wan Outline Zoning Plan (OZP) No. S/K5/37
- Zoning** : “Residential (Group A)8” (“R(A)8”)

[Restricted to a maximum plot ratio (PR) of 7.5 for a domestic building or 9.0 for a building that is partly domestic and partly non-domestic, and a maximum building height (BH) of 100mPD (120mPD for sites with an area of 400m² or more), or the PR/BH of the existing building, whichever is the greater.]
- Application** : Religious Institution (Church)

1. The Proposal

- 1.1 The applicant seeks planning permission for a religious institution (church) on 1/F and 2/F of the podium of an existing 37-storey composite building (the Premises) which consists of a domestic tower above a 3-storey non-domestic podium (**Plans A-1 and A-2**). According to the Notes of the OZP for the “R(A)” zone, ‘Religious Institution (not elsewhere specified)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board).

- 1.2 Occupying the whole 1/F and 2/F of the podium, the Premises is accessible via an independent entrance on G/F of the building fronting Cheung Wah Street (**Plans A-3 and A-4**). There are internal lifts and staircase connecting the entrance at G/F to 1/F and 2/F of the podium as shown in the floor plans of the Premises at **Drawings A-1 to A-4** submitted by the applicant as well as the ground floor plan at **Plan A-5**.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form with attachments and replacement page to site plan received on 13.2.2019 (**Appendix I**)
 - (b) Planning statement annexed to application form received on 13.2.2019 (**Appendix Ia**)
 - (c) Letter dated 16.5.2019 with Traffic Review Report (*accepted but not exempted from publication and recounting requirement*) (**Appendix Ib**)
 - (d) Letter dated 18.6.2019 with responses to comments (*accepted but not exempted from publication and recounting requirement*) (**Appendix Ic**)
 - (e) Letter dated 24.7.2019 with responses to comments (**Appendix Id**)
 - (f) Letter dated 29.7.2019 with replacement pages to Traffic Review Report (**Appendix Ie**)
 - (g) Letter dated 8.8.2019 with responses to comments (**Appendix If**)
- 1.4 The application was originally scheduled for consideration by the Metro Planning Committee (the Committee) of the Board on 12.4.2019. Upon request of the applicant, the Committee agreed on 12.4.2019 to defer making a decision on the application for two months to allow time for the applicant to address departmental comments. With the Further Information (FI) received on 18.6.2019, 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 the planning statement and the information at **Appendices Ia to Ie**. They are summarised as follows:

Land Use Compatibility

- (a) The Premises is located within a predominately residential neighbourhood with both public and private housing developments. Within the commercial podium of these developments are mainly retail shops and food & beverage (F&B) facilities with some religious institutions and elderly homes. The church at the

Premises is considered compatible with the general planning intention and character of the area.

Improvement to the Existing Conditions

- (b) The Premises was formerly used as a Chinese restaurant. The sound levels of worship singing would be lower than those from the Chinese restaurant use. The church use would lead to environmental improvement to the neighbourhood.

Demand for Religious Establishment in the Area

- (c) The demand for religious establishments in urban areas has been high. The applicant is expecting a steady growth of congregation. The church under application will be able to satisfy the residents' social and spiritual needs. It also allows the church to spot any social problems and/or need for help in the local community.

No Adverse Impacts

- (d) The church will not cause any annoyance to the residents nearby. The residential tower has independent main entrance and lift service, hence the church would not cause any inconvenience to the dwellers above. The church will endeavor to ensure that the existing tranquility of the environment will not be adversely affected.
- (e) The Premises is easily accessible and well served by public transport including various bus services and the MTR (Cheung Sha Wan Station). Attendees are expected to join the congregation by public transport and a notice has also been posted within the church to remind the attendees to use public transport to the church (**Appendix Ic**). There are also public car parks in the commercial developments in the surrounding area and there is a loading/unloading (L/UL) area at G/F of the subject building. The church is not likely to cause any adverse traffic impact to the surrounding area.

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

The applicant is not a “current land owner” of the Premises 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 obtaining consent from the owner of the Premises. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Application

There is no previous application at the Premises.

5. Similar Applications

- 5.1 Since 1990, there were six similar planning applications for religious institution within “R(A)” zone on the Cheung Sha Wan OZP (**Plan A-1**). Five of the applications (Nos. A/K5/141, A/K5/539, A/K5/606, A/K5/665 and A/K5/688) were approved with or without conditions while the remaining application (No. A/K5/722) was rejected by the Committee. Details of these applications are at **Appendix II**.
- 5.2 Amongst the approved applications, four applications were approved mainly because the religious institution use was not incompatible with uses of the same building and the surrounding land uses and they would not cause nuisance to the residential use as the religious institution was either located in a free-standing building (No. A/K5/141) or a commercial block/office building (Nos. A/K5/539 and A/K5/606), or provided with independent access separated from the residential portion of the composite building (No. A/K5/688). Another application (No. A/K5/665) was approved mainly because the subject religious institution had existed at the application premises for more than 30 years, the applicant had undertaken to equip with new emission reduction devices for the incense burner, and no public objection was received.
- 5.3 Application No. A/K5/722 was rejected mainly on the grounds that the proposed religious institution was not served with an independent access separated from the domestic portion of the composite building, and the approval would set an undesirable precedent for other similar religious institution application which would lead to intrusion of religious institution use into composite buildings with shared use of the existing access with the residential use on other floors.

6. The Premises and Its Surrounding Areas (Plans A-1 to A-5)

- 6.1 The Premises is:
- (a) currently used as a church; and
 - (b) accessible from Cheung Wah Street via an independent entrance on G/F with internal lifts and staircase connecting to the Premises. There is a separate entrance and lift lobby on G/F of the existing building (Florence Plaza) serving the upper domestic floors.
- 6.2 The subject building is a 37-storey composite building with uses summarised as follows:

Floors	Current Uses
G/F	Shops and services, eating place, and L/UL area
1/F and 2/F	Church (the Premises)
Podium Floor	Landscaped area and plant rooms
4/F to 36/F	Domestic units

- 6.3 The surrounding area has the following characteristics:
- (a) the area is predominately zoned “R(A)” with mainly composite residential and commercial buildings accommodating commercial uses including shop and services and eating places on the lower floors;
 - (b) to the northeast across Castle Peak Road are two commercial developments and one of them falls within an area zoned “Other Specified Uses” annotated “Hotel”¹ and is currently vacant (**Plan A-2**); and
 - (c) the area is well served with public transport. The MTR Cheung Sha Wan Station is located within about 550m from the Premises.

7. **Planning Intention**

The planning intention of “R(A)” 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.

8. **Comments from Relevant Government Departments**

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

Land Administration

8.1.1 Comments of the District Lands Officer/Kowloon West, Lands Department (DLO/KW, LandsD):

- (a) the Premises falls within NKIL No. 6154 which is governed by Conditions of Exchange No. 12256 dated 27.8.1993 as varied or modified by two Modification Letters dated 23.5.1995 and 7.11.1995. The Lot is restricted for non-industrial (excluding godown, hotel, petrol filling station and services apartments) purposes subject to minimum GFA of 6,600m² and anti-nuisance provisions; and
- (b) the proposal submitted by the applicant does not conflict with the lease conditions governing the Premises.

¹ The subject site was rezoned from “R(A)” subsequent to the rezoning application (No. Y/K5/1) approved on 15.8.2008 for internal conversion of an existing commercial/office building for hotel purpose.

Traffic Aspect

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

- (a) no objection in principle to the application;
- (b) the applicant is advised to note and observe the following regarding the parking and L/UL provision:

Parking provision:

- (i) no comment on the proposed nil car parking provision in view of the close proximity to vast amount of public transport available in the vicinity including the MTR stations and the bus routes within walking distance and the site constraint that the existing building does not have car park;
- (ii) for the notice issued from the church to their users to remind the users to use public transport (**Appendix Ic**), the notice should also mention that no parking space is available within the building;

L/UL provision:

- (iii) the church should use the existing internal L/UL bay provided inside the building. The management office of the existing building should allow the existing L/UL bay inside the building for use of the church for L/UL or pick up/set down of their users, particularly the elderly and the disabled in need; and
- (iv) C for T has the rights to impose, alter or cancel any car parking, L/UL facilities and/or any no-stopping restrictions, on all local roads to cope with changing traffic conditions and needs. The frontage road space would not be reserved for any exclusive uses of the subject development.

Building Aspect

8.1.3 Comments of the Chief Building Surveyor/Kowloon, Buildings Department (CBS/K, BD):

- (a) no objection in principle to the application;
- (b) the applicant is advised to engage an Authorized Person (AP) to ensure that any alterations and additions/ change in use are implemented in compliance with the Buildings Ordinance (BO), in particular adequate means of escape shall be provided to the Premises based on the estimated population of the church on 1/F and 2/F;

- (c) under section 14(1) of the BO, no person shall commence or carry out any building works without having first obtained approval and consent from the Building Authority before commencement of works unless they are exempted under section 41 of the BO or fall within Minor Works under the Building (Minor Works) Regulation;
- (d) detailed comments under the BO would be provided at the building plan submission stage; and
- (e) granting of any waiver 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 Building Authority to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary.

Fire Safety

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

no objection in principle to the application subject to fire service installations and water supplies for firefighting being provided to the satisfaction of Fire Services Department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans.

Environmental Aspect

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

- (a) no objection to the application;
- (b) in view of the small scale and nature of the church, adverse environmental impact would unlikely be anticipated provided that the church is properly designed and managed; and
- (c) the applicant is advised to minimise any noise from the church such that it would not cause any noise nuisance to nearby sensitive receivers and that it is the obligation of the applicant to meet all statutory requirements under relevant pollution control ordinances including the Noise Control Ordinance, Air Pollution Control Ordinance and provide necessary mitigation measures.

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

- (a) Secretary for Home Affairs (SHA);
- (b) Chief Highway Engineer/Kowloon, Highways Department (CHE/K, HyD);
- (c) Director of Food and Environmental Hygiene (DFEH);

- (d) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (f) Commissioner of Police (C of P); and
- (g) District Officer (Sham Shui Po), Home Affairs Department (DO(SSP), HAD).

9. Public Comments Received During the Statutory Publication Periods

On 22.2.2019, 28.5.2019 and 25.6.2019, the application was published for public inspection. During the three statutory publication periods which ended on 15.3.2019, 18.6.2019, and 16.7.2019 respectively, a total of four public comments were received from individuals (**Appendix III**). One comment expressed concerns on the increased pedestrian traffic and adverse impact on the public hygiene in the area. The remaining three comments, among which two were from the same commenter, raised objection to the application on the grounds that it would exclude the Premises from shop and services uses and would lead to adverse impacts on traffic and fire safety as well as possible nuisance to the residents of the subject building.

10. Planning Considerations and Assessments

- 10.1 The planning application is to seek planning permission for continuing to use the Premises for a church. The Premises is located in a 3-storey non-domestic podium of an existing composite building which falls within “R(A)” zone. The planning intention of the “R(A)” zone is primarily for high-density residential developments and 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. While the use of the Premises for a church may not be entirely in line with the planning intention of “R(A)” zone, it is considered not incompatible with the existing shop and services and eating place uses on G/F of the non-domestic podium of the building. As the non-domestic podium and the domestic tower above have separate entrances (**Plans A-3 to A-5**) and the church is served by an independent entrance with internal lifts and staircase connecting to 1/F and 2/F of the building (**Drawings A-1 to A-4 and Plan A-5**), it is envisaged that the church will not cause nuisance to the residents of the same building. In this regard, SHA and DO(SSP) have no objection to or no comment on the application.
- 10.2 The church is also considered not incompatible with the surrounding developments which are mainly composite residential and commercial buildings accommodating commercial uses including shop and services and eating places on the lower floors. The church would unlikely cause adverse impacts on the surrounding areas. The relevant Government departments including C for T, DEP, DFEH and C of P have no adverse comment on the application. D of FS has no objection to the application subject to the provision of fire service installations and water supplies for firefighting. As such, should the application

be approved, the approval conditions suggested in paragraph 11.2 below are recommended. Regarding C for T's comments on parking and L/UL provision, the applicant undertakes to implement the measures as advised by C for T (**Appendix If**).

- 10.3 Regarding the public comments, the departmental comments in paragraph 8 above and the planning assessments above are relevant.

11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10 above and having taken into account the public comments mentioned in paragraph 9 above, the Planning Department has no objection to the application.
- 11.2 Should the Committee decide to approve the application, it is suggested that no time clause for commencement of development is proposed, as the church 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 water supplies for firefighting within six months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 16.2.2020; 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 IV**.

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

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.

12.3 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.

13. Attachments

Appendix I	Application form with attachments and replacement page to site plan received on 13.2.2019
Appendix Ia	Planning statement annexed to application form received on 13.2.2019
Appendix Ib	Letter dated 16.5.2019 with Traffic Review Report
Appendix Ic	Letter dated 18.6.2019 with responses to comments
Appendix Id	Letter dated 24.7.2019 with responses to comments
Appendix Ie	Letter dated 29.7.2019 with replacement pages to Traffic Review Report
Appendix If	Letter dated 8.8.2019 with responses to comments
Appendix II	Similar s.16 applications within “R(A)” zone on Cheung Sha Wan OZP
Appendix III	Public comments
Appendix IV	Recommended advisory clauses
Drawings A-1 to A-4	Floor plans
Plan A-1	Location plan
Plan A-2	Site plan
Plans A-3 to A-4	Site photos
Plan A-5	Ground floor of Florence Plaza

**PLANNING DEPARTMENT
AUGUST 2019**