

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

APPLICATION NO. A/I-CC/33

- Applicant** : Ever Able Creation Limited represented by PlanPlus Consultancy Limited
- Premises** : Commercial Building Portion, Greenery Crest, No. 33, Cheung Shek Road, Cheung Chau, New Territories
- Floor Area** : About 400m²
- Lease** : Lot 1780 (Part) in D.D. Cheung Chau
- Held under New Grant No. 7472 as varied or modified by a modification letter dated 13.12.1991
- Restricted to any purpose other than private residential purposes, provided that one ancillary commercial building with a total gross floor area (GFA) of not less than 400m² nor more than 800m² to be permitted
- Plan** : Approved Cheung Chau Outline Zoning Plan (OZP) No. S/I-CC/9
- Zoning** : “Residential (Group C) 2” (“R(C)2”)

[Restricted to a maximum plot ratio (PR) of 0.7, a maximum site coverage (SC) of 40% and a maximum building height (BH) of 3 storeys (9m), or the height of the existing building, whichever is the greater]
- Application** : Proposed Social Welfare Facility (Residential Care Home for Persons with Disabilities (RCHD))

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for proposed social welfare facility (RCHD). The Premises located within a residential development namely Greenery Crest which falls within an area zoned “R(C)2” on the approved Cheung Chau OZP No. S/I-CC/9 (**Plan A-1**). According to the Notes of the OZP, ‘Social Welfare Facility’ use is a Column 2 use of the “R(C)2” zone which requires planning permission from the Town Planning Board (the Board).

- 1.2 The Premises occupy the entire floor space of an existing single-storey standalone building at the north-eastern part of the residential development, which were originally built for shop use, but have been using as kindergarten/nursery since 1998¹. The Premises have their own pedestrian access at Cheung Shek Road separated from the entrance of residential portion of Greenery Crest (**Plans A-2 to 4a**).
- 1.3 The proposal involves in-situ conversion of the Premises to a private RCHD with a GFA of about 400m². The PR, GFA, SC and BH of the Greenery Crest would remain unchanged. According to the applicant, the proposed RCHD is intended to meet the needs of ‘medium care level home’ to serve the community of Cheung Chau and the wider area in Hong Kong. While the target commencement time of the RCHD is Q3 2026, the applicant commits to maintain close cooperation with the school operator and make proper arrangement to allow sufficient time to handle the school closure matter (**Appendix Ia**).
- 1.4 The proposed RCHD has a net operational floor area (NOFA) of about 370.98m² to provide 39 private bed spaces and one isolation bed space² with ancillary facilities including a reception/office, a nursing station, a living/dining/activities area, a store room, laundry and kitchen, etc. The layout plan of the applied use submitted by the applicant is at **Drawing A-1**.
- 1.5 According to the applicant, the visiting time is between 9:00 a.m. to 8:00 p.m. daily upon reservation while the maximum number of visitors is 78 persons. No adverse traffic impact is anticipated from the proposed RCHD. With regard to the noise impact from the electricity substation nearby, proper mitigation measures such as blank wall facing the fixed noise sources can be considered in detailed design stage. According to the Sewerage and Drainage Impact Assessment submitted by the applicant, the sewerage impact generated by the proposed RCHD to the surroundings would be insignificant. The applicant proposes to turn the existing combined sewerage and drainage into separate systems in order to divert stormwater from the Premises. The applicant will also follow good site practices and necessary measures to minimise the environmental impacts during construction phase.
- 1.6 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 31.7.2024 (**Appendix I**)
 - (b) Consolidated Supporting Planning Statement (SPS) (**Appendix Ia**)

¹ The Premises have been used for kindergarten/nursery before the first Cheung Chau OZP was published in 2004, which can be considered as an ‘existing use’ under the OZP.

² According to the applicant, isolation facility is one of the basic facilities of an RCHD with reference to the ‘Code of Practice for RCHD’ issued by the Social Welfare Department (SWD). The isolation room(s) are used as an infection control measure for residents in need to prevent the spread of such diseases and protect the other persons in the same RCHD. The isolation rooms will not induce additional bed spaces to the RCHD and will not be used for medical treatment. The current proposal can achieve 9.5m² bed space per resident which reaches the minimum requirement of 6.5m² as proposed in the Code of Practice for RCHD.

received on 16.9.2024³

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Section 5 of SPS (**Appendix Ia**), which are summarised as follows:

- (a) The existing kindergarten/nursery has a total number of about 69 students and 7 staff members as of September 2022. There is a surplus of kindergarten/nursery classrooms in Cheung Chau due to the declining birth rates and a decrease in population aged below 4 and hence it would result in a decreased demand for the early childhood education services.
- (b) There is a long pressing demand for RCHD places in both local and territorial level. As at September 2023, about 11,068 applicants have been waitlisted in Social Welfare Department (SWD)'s Central Referral System for Rehabilitation Services. In addition, there is absence of RCHD in Cheung Chau. The proposed RCHD with 39 bedspaces will be able to relieve the pressure on service demand and shorten the waiting time from the much-needed care services.
- (c) The Policy Addresses published in recent years emphasised the need for improvement in rehabilitation services, such as providing additional places for rehabilitation services and increasing the number of nursing staff in RCHD. The proposal is in line with the government's policy initiatives on providing quality RCHD services in private sector.
- (d) The proposal could facilitate optimisation of land resources with minimal construction time, which only involves conversion of internal layout for the existing building. The proposed RCHD with a floor space per resident of 9.5m² meets the minimum requirement of 6.5m² according to the Code of Practice for RCHD.
- (e) The proposed use will not generate any adverse visual, traffic, environment, drainage and sewerage impact on its surroundings. The proposal will also meet all the relevant ordinances and regulations for RCHD. The building plan and fire safety proposal will be submitted in accordance with Buildings Ordinance and other fire safety regulations in the later stages.

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.

³ A total of three previous further information (FI) submissions (received on 29.8.2024, 9.9.2024 and 16.9.2024) were received in response to departmental comments and public comments with relevant technical assessments. All three FIs were accepted and exempted from recounting and publication requirements. The consolidated SPS in **Appendix Ia** supersedes the original SPS and all FIs and hence not attached to this paper.

4. Previous Application

There is no previous application at the Premises.

5. Similar Application

There is no similar application within the “R(C)” zone on the OZP.

6. The Premises and Its Surrounding Areas (Plans A-1 to A-3 and site photos on Plans A-4a to A-4b)

6.1 The Premises:

- (a) are located in an existing single-storey standalone building at the north-eastern corner of a residential development, Greenery Crest. According to the Occupation Permit issued on 22.11.1991, the Premises were for a shop;
- (b) are accessible from Cheung Shek Road branching off from Cheung Chau Sai Tai Road; and
- (c) have their own pedestrian entrance separated from the residential portion of Greenery Crest.

6.2 The subject development, Greenery Crest is a low-rise and low-density residential development in the south-western part of Cheung Chau. The residential portion of Greenery Crest comprises 12 three-storey residential blocks and 12 two-storey semi-detached houses providing 168 flats.

6.3 The surrounding areas are predominately rural in character with low-rise residential developments, village houses and government, institution and community (GIC) uses. Cheung Chau Park, Cheung Chau Park Tennis Court and Cheung Shek Road Gateball Court are located to the east of the Premises. To the immediate north is CLP Cheung Chau South Substation. The waterfront to the further north is mainly occupied by GIC uses such as Cheung Chau Fireboat Station and landing steps.

7. Planning Intention

The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

8. Comments from Relevant Government Bureau/Departments

8.1 The following government bureau/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/Islands, Lands Department (DLO/Is, LandsD):

- (a) the Premises are within Lot 1780 in D.D. Cheung Chau (the Lot). The Lot is held under New Grant No. 7472 as varied or modified by a modification letter dated 13.12.1991 (the New Grant). Under the New Grant, the Lot shall not be used for any purposed other than private residential purposes, provided that one ancillary commercial building with a total GFA of not less than 400m² nor more than 800m² will be permitted within the Lot; and
- (b) according to the SPS submitted by the applicant, the proposal under the application is to convert the single-storey kindergarten/nursery to a private RCHD with a total GFA of 400m² and there will be no change in the existing GFA, SC and BH of the said single-storey building after the conversion. In view of the above, the proposal submitted by the applicant does not conflict with the New Grant governing the Premises and so if the proposal is approved by the Board, the applicant is not required to seek a lease modification from LandsD to implement it. Therefore, any planning conditions, if imposed by the Board, cannot be written into the lease conditions through lease modification.

Community Facilities Provision

8.1.2 Comments of the Secretary for Education (S for E):

- (a) no specific views on the proposed application since the kindergarten premises as stated in the submitted proposal are located in a private residential area, in which the provision of kindergarten is market-driven;
- (b) if the landlord of school premises have an intention not to renew the tenancy agreement with the school, it is recommended the landlord should inform the school as early as possible for the benefit of students; and
- (c) other detailed comments are included in the recommended advisory clauses at **Appendix III**.

8.1.3 Comments of the Director of Social Welfare (DSW):

- (a) the proposed RCHD is required to obtain a licence from SWD's licensing office before commencement of service. The applicant is reminded that, the intended RCHD has to comply with the licensing requirements as stipulated in the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613) and its subsidiary legislation, and the latest version of Code of Practice for Residential Care Homes (Persons with Disabilities). Detailed comments will

be formulated at the licence application submission stage;

- (b) while there is no detailed information on the plan for recruiting staff members for the proposed RCHD, she has no adverse comment on the application from district's perspective on the understanding that the applicant has considered the premises' accessibility for emergency and medical services and subject to relevant service branches' advice on licensing and technical issues; and
- (c) other detailed comments are included in the recommended advisory clauses at **Appendix III**.

Building Matters

8.1.4 Comments of the Chief Building Surveyor/New Territories East 1 & Licensing, Buildings Department (CBS/NTE1&L, BD):

- (a) no in-principle objection to the proposed use in the Premises under the Buildings Ordinance; and
- (b) other detailed comments are included in the recommended advisory clauses at **Appendix III**.

Fire Safety

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

- (a) no in-principle objection to the application subject to water supplies for firefighting and fire service installations being provided to the satisfaction of his department at the detailed design stage;
- (b) detailed fire safety requirements will be formulated upon receipt of formal submission of building plans or referral from relevant licensing authority; and
- (c) other detailed comments are included in the recommended advisory clauses at **Appendix III**.

Environment and Sewerage

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

- (a) no objection to the application from environmental and sewerage perspectives in view of the nature and small scale of the proposed RCHD;
- (b) the applicant is reminded to strictly comply with relevant pollution control ordinances, to implement appropriate pollution control measures to minimise any potential environmental impacts during construction of the development; and

- (c) other detailed comments are included in the recommended advisory clauses at **Appendix III**.

8.1.7 Comments of the Chief Engineer/Hong Kong & Islands, Drainage Services Department (CE/HK&I, DSD):

- (a) the proposed RCHD would not have adverse impact on the operation of the Tai Shek Hau Sewage Pumping Station. DEP is the planning authority of sewerage infrastructure and whether capacity could be reserved for the subject redevelopment shall be at DEP's discretion; and
- (b) other detailed comments are included in the recommended advisory clauses at **Appendix III**.

Traffic

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

no objection to the application from traffic engineering point of view.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Commissioner of Police;
- (d) Director of Electrical and Mechanical Services; and
- (e) District Officer/Islands, Home Affairs Department.

9. Public Comments Received During Statutory Publication Period

9.1 On 9.8.2024, the application was published for public inspection. During the statutory publication period, a total of 29 public comments were received from one chairperson of Lamma Island (North) Rural Committee cum member of Islands District Council (IsDC), 2 members of IsDC, a member of Area Committee (Islands), two persons writing on behalf of Management Committee of the Incorporated Owners of Greenery Crest, residents of Greenery Crest and other individuals all raising objection to the application (**Appendix II**). The major objecting grounds are summarised as follows:

- (a) the Premises are currently operated as a kindergarten and nursery. It has been operated for over 20 years and is well-supported by the local community. The proposed RCHD will lead to the closure of the school and there are no appropriate arrangements for the affected students. Moreover, it is difficult to find another places to accommodate the subject school. It will result in an increase of school dropout for the local students;
- (b) there are existing Residential Care Homes for the Elderly (RCHE) facilities

in Cheung Chau. The demand for the RCHD services in Cheung Chau is questionable. Besides, the proposed RCHD is small in scale which is not suitable for its long-term development;

- (c) there are concerns on the location of the RCHD. There is currently lack of barrier-free and persons with disabilities' facilities in Cheung Chau. Moreover, St. John Hospital is located far away from the Premises and only offers basic medical services. The hospital is not able to respond to the emergencies and meet the needs of residents in the proposed RCHD. Besides, there are inadequate medical staffs in Cheung Chau to support the operation of the proposed RCHD;
- (d) the Premises are located within the Greenery Crest. It contravenes the Deed of Mutual Covenant (DMC) of Greenery Crest due to the residential nature of the RCHD. Moreover, the changes to the nature of the premises and the additional pedestrian/traffic flow brought by the proposed use will create privacy and safety concerns, noise impact, as well as bringing inconvenience and potential nuisances to the nearby residents. There will have conflict between local residents and the users of the RCHD. It will also affect the property values of the surrounding residential area;
- (e) the proposed RCHD will bring adverse impacts on infrastructure capacities, such as water and electric supply, drainage and traffic, etc. The existing roads near the Premises are already at full capacity. It cannot cater for the additional traffic flow from ambulances and other vehicles generated by the proposed RCHD; and
- (f) there are plenty of vacant school premises in the central part of Cheung Chau, including former Cheung Chau Fisheries Joint Association Public School, former Buddhist Wai Yan Memorial College, former Cheung Chau Public School and former Shun Tak Public School, which are more suitable for RCHD development.

10. Planning Considerations and Assessments

- 10.1 The application is to seek planning permission to use the Premises for proposed social welfare facility (RCHD), which falls within an area zoned "R(C)2" on the OZP (**Plan A-1**). The planning intention of the "R(C)2" zone is primarily for low-rise, low-density residential developments where other commercial uses serving the residential neighbourhood may be permitted on application to the Board. While the applied use is not entirely in line with the planning intention of the "R(C)" zone, the proposal is to convert the Premises into a social welfare facility involving residential accommodation for persons with disabilities without any increase in the GFA, PR, SC and BH of the whole development.
- 10.2 The Premises are located in an existing single-storey standalone building within a residential development having their own pedestrian access at Cheung Shek Road separated from the entrance of residential portion. The surrounding areas are predominately rural in character with low-rise residential buildings and village houses intermixed with GIC uses and open space (**Plans A-2 to A-4b**). Given the

proposed RCHD is a small scale social welfare facility with a total floor area of about 400m² within the purpose-designed non-domestic portion separated from the residential portion, the proposed use is considered not incompatible with the surrounding land uses.

- 10.3 While the Premises are designated for shop use on the Occupation Permit, it is currently used for a 5-classroom kindergarten/nursery. S for E advises that the provision of kindergarten is market-driven, and the overall provision of kindergarten/nursery in Cheung Chau can still meet the requirement under Hong Kong Planning Standards and Guidelines (HKPSG) after the proposed conversion of the Premises into RCHD. According to the requirement under HKPSG, there will still have a surplus of 6 classrooms for kindergarten/nursery based on the existing population of Cheung Chau after the proposed conversion. On the other hand, there is currently no RCHD in Cheung Chau. According to the requirement under HKPSG, there is a deficit of 58 subvented places for residential care services for the existing population of Cheung Chau. Upon the proposed conversion, there will have 39 places for RCHD to meet the need of the community. Although the proposed RCHD will be privately-run, it can help address the potential shortage of the residential care services in Cheung Chau. Both S for E and DSW have no specific view or no adverse comment on the application.
- 10.4 In view of the small scale and nature of the proposed RCHD, significant impacts on traffic, environment, drainage, and fire safety are not anticipated. Proper mitigation measures can be considered in detailed design and implementation stages. Relevant government departments including C for T, DEP, CE/HK&I, DSD and D of FS have no objection to or no adverse comment on the application. Comments of DSW, D of FS and CBS/NTE1&L, BD on the fire safety requirements, means of escape and other detailed operation arrangements of the RCHD can be dealt with at the building plan submission and licence application stage.
- 10.5 There are 29 objecting public comments during the statutory publication periods as summarised in paragraph 9 above. The departmental comments in paragraph 8 and planning assessments in paragraphs 10.1 to 10.4 above are relevant. Regarding the public comments on the utilisation of vacant school premises sites in Cheung Chau, PlanD and relevant government departments will regularly conduct review under the Central Clearing House mechanism and recommend suitable long-term uses of vacant school premises if appropriate. As for the issues on land ownership and DMC, they are purely land administration matters which are outside the scope of the OZP which should be dealt with separately by the applicant. For the comment regarding no appropriate arrangement for affected students of the kindergarten/nursery, as suggested by S for E, an advisory clause is recommended to request the applicant that if there is an intention not to renew the tenancy agreement with the school, he should inform the school as early as possible so as to allow time for school to handle the matters such as relocation or closure as well as for students to secure places in other kindergartens for next school year.

11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the

public comments 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 the planning permission shall be valid until 20.9.2028, 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 recommended advisory clauses are attached at **Appendix III** for Members' reference.
- 11.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed use is not in line with the planning intention of the "Residential (Group C) 2" zone, which is primarily for low-rise, low-density residential developments. There is no strong planning justification in the submission for a departure from the planning intention.

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 received on 31.7.2024
Appendix Ia	Consolidated SPS received on 16.9.2024
Appendix II	Public comments
Appendix III	Recommended advisory clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2024**