

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

**APPLICATION NO. A/NE-TKL/785**

<b><u>Applicant</u></b>	: Warm Sunshine Rehabilitation Home Limited represented by Kea Kwun (International) Consultants Limited
<b><u>Site</u></b>	: Lot 1267 in D.D. 84 and Adjoining Government Land (GL), Tai Po Tin, Ta Kwu Ling, New Territories
<b><u>Site Area</u></b>	: About 744.5m <sup>2</sup> (including GL of about 680m <sup>2</sup> or 91% of the Site)
<b><u>Lease</u></b>	: New Grant No. 11118 (for erection of a building for non-industrial purpose)
<b><u>Plan</u></b>	: Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: Temporary Social Welfare Facility (Residential Care Home for Persons with Disabilities (RCHD)) for a Period of Three Years and Associated Filling of Land

**1    The Proposal**

- 1.1 The applicant seeks planning permission for temporary social welfare facility (RCHD) for a period of three years and associated filling of land at the application site (the Site) which falls within an area zoned “AGR” on the OZP (**Plan A-1**).<sup>1</sup> According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years and filling of land within the “AGR” zone require planning permission from the Town Planning Board (the Board). The Site is fenced-off, hard-paved and used for the applied use without valid planning permission.
- 1.2 The Site is accessible via a local track leading from Ping Che Road (**Plan A-1**). According to the applicant, the temporary use involves one three-storey building (8.23m in height) with a total floor area of not more than 167.8m<sup>2</sup> providing 26 bed spaces for RCHD use, as well as three one to two-storey structures (maximum 5.5m in height) with a total floor area of not more than 172.1m<sup>2</sup> for office, kitchen and religious activities/dining hall uses. The applicant also applies for regularisation of filling of land of the entire Site with concrete of about 0.2m in depth. Two private car parking spaces and one ambulance parking space will be provided within the Site. The operation hours

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<sup>1</sup> A narrow strip of the Site of about 18.6m<sup>2</sup> (i.e. about 2.5% of the Site) falls within the “Government, Institution or Community” (“G/IC”) zone on the OZP, which is considered as minor boundary adjustment and not included in the planning assessment.

of the applied use are 24 hours daily including public holidays. The layout plan submitted by the applicant is shown in **Drawing A-1**.

- 1.3 The Site is the subject of three previously approved applications (No. A/NE-TKL/565, 643 and 739) submitted by the same applicant for the same use as the current application. The last application No. A/NE-TKL/739 was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 22.9.2023. The planning approval was subsequently revoked on 23.12.2023 due to non-compliance with an approval condition. Details of the previous applications are set out in paragraph 5.1 below.
- 1.4 To support the application, the applicant has submitted the accepted drainage proposal under the previous application No. A/NE-TKL/565 and the relevant compliance letters relating to approval conditions on the implementation of drainage, sewerage and fire service installations proposals under application No. A/NE-TKL/565 (**Appendix Ia**). According to the applicant, the drainage facilities at the Site are in accordance with the accepted drainage proposal under application No. A/NE-TKL/565.
- 1.5 In support of the application, the applicant has submitted the following documents:
  - (a) Application Form with attachments received on 21.11.2024 (**Appendix I**)
  - (b) Further Information (FI) received on 31.12.2024<sup>^</sup> (**Appendix Ia**)

*<sup>^</sup>accepted and exempted from publication and recounting requirements*

## **2 Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I and Ia**, as summarised below:

- (a) the applicant has complied with all of the approval conditions under the previous application No. A/NE-TKL/643. The applicant was not aware of the approval conditions under the last approved application No. A/NE-TKL/739 and therefore did not comply with the approval conditions;
- (b) the applicant undertakes to pay attention to the security of the RCHD and avoid affecting the villagers; and
- (c) the applied use will provide a comfortable living place for the disabled persons.

## **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. 31B) by obtaining consent from the current land owner. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the “Owner’s Consent/Notification” requirements are not applicable.

## **4 Background**

The Site is not subject to any active planning enforcement action.

## **5 Previous Applications**

5.1 The Site is the subject of three previous applications No. A/NE-TKL/565, 643 and 739 (the latter two for renewal of planning approval) submitted by the same applicant for the same use as the current application. They were all approved with conditions by the Committee between 2017 and 2023 mainly on the considerations that the RCHD was not incompatible with the surrounding developments; adverse traffic, environmental, drainage and landscape impacts on the surrounding areas were not anticipated in view of the nature and the small-scale RCHD; and no adverse departmental comment on or objection to the application was received. The last approved application No. A/NE-TKL/739 for renewal of planning approval for temporary social welfare facility (RCHD) was subsequently revoked on 23.12.2023 due to non-compliance with approval condition relating to the submission of a condition record of the existing drainage facilities. Compared with the last approved application, except for regularisation of filling of land, the applied use, layout and development parameters of the current application remain the same.

5.2 Details of the previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

## **6 Similar Application**

There is no similar application within the same “AGR” zone in the vicinity of the Site in the past five years.

## **7 The Site and Its Surrounding Areas (Plans A-1 to A-4b)**

7.1 The Site is:

- (a) fenced-off, hard-paved and used for the applied use without valid planning permission; and
- (b) accessible via a local track leading from Ping Che Road.

7.2 The surrounding areas are of rural character comprising mainly domestic structures, active/fallow agricultural land and vehicle repair workshops. Ta Kwu Ling Farm and Wun Chuen Sin Kwoon (雲泉仙館) are located within “G/IC” zones to the immediate east and further north across Ping Che Road respectively. A “Green Belt” zone is located to the further north of the Site.

## **8 Planning Intention**

8.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

- 8.2 According to the Explanatory Statement of the OZP, as filling of land within the “AGR” zone may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

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

- 9.1 Apart from the government departments as set out in paragraphs 9.2 and 9.3 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided at **Appendices III** and **IV** respectively.
- 9.2 The following government department does not support the application:

### **Agriculture**

- 9.2.1 Comments of the Director of Agriculture and Fisheries and Conservation (DAFC):

- (a) the application is not supported from agricultural perspective; and
- (b) the Site falls within the “AGR” zone and is a paved vacant land with structures. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as greenhouses, plant nurseries, etc. The Site possesses potential for agricultural rehabilitation.

- 9.3 The following government department has conveyed local views on the application:

### **Local Views**

- 9.3.1 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

the Village Representative of Tai Po Tin relays two objections to the application mainly on the grounds that the applied use poses danger and nuisance to the villagers of Tai Po Tin as there was an incident that a few residents of the RCHD at the Site left the premises without permission; and that no details of the applied use is provided.

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

On 29.11.2024, the application was published for public inspection. During the statutory public inspection period, two comments were received (**Appendix V**). One comment from an individual expresses that the drainage condition at the Site is unclear; and that good hygiene for the applied use is imperative. Another comment from a member of the North District Council indicates no comment on the application.

## **11 Planning Considerations and Assessments**

- 11.1 The application is for temporary social welfare facility (RCHD) for a period of three years and associated filling of land at the Site zoned “AGR” on the OZP. The applied use is not in line with the planning intention of the “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from the agricultural perspective as the Site possesses potential for agricultural rehabilitation. Nonetheless, taking into account the planning assessments below, the applied use on a temporary basis of three years could be tolerated.
- 11.2 The application involves regularisation of filling of land at the whole Site with concrete of about 0.2m in depth. Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department and the Director of Environmental Protection have no objection to the application from the public drainage and environmental perspectives respectively. An approval condition requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.
- 11.3 The Site is situated in an area of rural character comprising mainly domestic structures, active/fallow agricultural land and vehicle repair workshops. The Chief Town Planner/Urban Design & Landscape of Planning Department has no adverse comment on the application from landscape planning perspective and advises that further adverse impact on the existing landscape character and landscape resources within the Site arising from the applied use is not anticipated. As advised by the Director of Social Welfare, the RCHD at the Site is covered with licence which remains valid until 30.4.2026. Other relevant government departments consulted, including the Commissioner for Transport, Director of Fire Services and Director of Food and Environmental Hygiene, have no objection to or no adverse comment on the application. To address the technical requirements of the concerned departments, relevant approval conditions are recommended in paragraph 12.2 below.
- 11.4 The Site is the subject of three previously approved applications submitted by the same applicant for the same use as the current application. The last application No. A/NE-TKL/739 for renewal of planning approval for temporary social welfare facility (RCHD) was approved with conditions by the Committee on 22.9.2023 mainly on the considerations as detailed in paragraph 5.1 above. The planning approval was subsequently revoked on 23.12.2023 due to non-compliance with approval condition relating to the submission of a condition record of the existing drainage facilities. Compared with the last approved application, except for regularisation of filling of land, the applied use, layout and development parameters of the current application remain the same. According to the applicant, they were not aware of the approval conditions under the last approved application No. A/NE-TKL/739 and therefore did not comply with the approval conditions. To support the application, the applicant has submitted the accepted drainage proposal under the previous application No. A/NE-TKL/565 and explains that the drainage facilities at the Site are in accordance with the accepted proposal. Should the Committee decide to approve the application, the applicant will be advised that should the applicant fail to comply with the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.

- 11.5 Regarding the local comments conveyed by DO(N), HAD as detailed in paragraph 9.3, the applicant responds that no resident in the RCHD at the Site has ever left the premises without permission. The applicant undertakes to pay attention to the security of the RCHD and avoid affecting the villagers (**Appendix Ia**). Regarding the public comments received on the application as detailed in paragraph 10, comments from the government departments and 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 local comments conveyed by DO(N), HAD and public comments as detailed in paragraphs 9.3 and 10 respectively, the Planning Department considers that the applied use could be tolerated for a period of three years.
- 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 three years until 10.1.2028. The following conditions of approval and advisory clauses are suggested for Members' reference:

### Approval Conditions

- (a) the submission of a condition record of the existing drainage facilities within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 10.4.2025;
- (b) in relation to (a) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (c) the submission of a fire service installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 10.7.2025;
- (d) in relation to (c) above, the implementation of the fire service installations proposal within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 10.10.2025;
- (e) if the above planning condition (b) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (f) if any of the above planning condition (a), (c) or (d) 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; and
- (g) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

### Advisory Clauses

The Recommended Advisory Clauses are at **Appendix IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the applied use with associated filling of land is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

### **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 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.

### **14 Attachments**

<b>Appendix I</b>	Application Form with Attachments received on 21.11.2024
<b>Appendix Ia</b>	FI received on 31.12.2024
<b>Appendix II</b>	Previous Applications
<b>Appendix III</b>	Government Departments' General Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Appendix V</b>	Public Comments
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
JANUARY 2025**