

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

**APPLICATION NO. A/ST/1002**

<b><u>Applicant</u></b>	: Sea View Villa Limited represented by Speed-add Consultancy Company Limited
<b><u>Premises</u></b>	: G/F – 2/F, Block 2, Sea View Villa, 5800 Tai Po Road, Sha Tin, New Territories
<b><u>Floor Area</u></b>	: 627 m <sup>2</sup> (about)
<b><u>Lease</u></b>	: New Grant No. 9209 (a) Restricted for private residential use (b) Not less than one private car parking space per flat
<b><u>Plan</u></b>	: Approved Sha Tin Outline Zoning Plan (OZP) No. S/ST/34
<b><u>Zoning</u></b>	: “Green Belt” (“GB”)
<b><u>Application</u></b>	: Social Welfare Facility (Residential Care Home for the Elderly (RCHE))

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Social Welfare Facility (RCHE)’ use. According to the Notes of the OZP, ‘Social Welfare Facility’ is a Column 2 use in “GB” zone requiring planning permission from the Town Planning Board (the Board).
- 1.2 The application is to regularise an existing private RCHE, known as Sea View Elderly Home (海恬護老院), currently in operation at the Premises. According to the applicant, the subject RCHE has been in operation for more than ten years with a licence (No. L1022) issued by Social Welfare Department (SWD) valid until January 2022.
- 1.3 The Premises, with a floor area of about 627m<sup>2</sup>, is located on the ground floor, first floor and second floor of Sea View Villa Block 2. According to the information provided by the applicant, the RCHE generally provides residential

elderly care services with major facilities including dormitories (60 beds), living rooms, kitchens, and toilets. The subject RCHE operates 24 hours a day on a daily basis.

- 1.4 In support of the application, the applicant submitted the application form with attachments on 11.8.2021 (**Appendix I**); and further information (FI) clarifying the background information of the Premises and applied use on 24.8.2021 and 3.9.2021 (**Appendix Ia** and **Appendix Ib**), and responding to comments from Transport Department on 16.11.2021 (**Appendix Ic**). The floor plan of the Premises submitted by the applicant is shown in **Drawings A-1 to A-3**.
- 1.5 The application was originally scheduled for consideration by the Rural and New Town Planning Committee (the Committee) on 24.9.2021. Upon request by the applicant's representative, the Committee agreed to defer a decision on the application for two months on 24.9.2021. After the deferral, the applicant submitted FI on 16.11.2021 in responses to Transport Department's comments received. The application is re-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 Part 10 of the application form at **Appendix I** and FI at **Appendices Ib** and **Ic**. They can be summarized as follows:

- (a) as the ageing trend has become a major concern in Hong Kong in recent year, the elderly population has been considerably increased and resulted in an additional demand for elderly facilities including RCHE. There is a deficit for RCHE in Sha Tin district according to the Hong Kong Planning Standards and Guidelines (HKPSG) on Community Facilities. The subject RCHE providing 60 beds for the elderly to the local community, could help cope with the increasing demand for such facility;
- (b) the subject RCHE has been in operation for over ten years, and will not bring adverse traffic, environmental, fire safety, and building concerns to the surroundings. In particular, there are sufficient loading/unloading spaces for staff and visitors as well as goods vehicles, and pick-up/drop-off points for emergency vehicles; and
- (c) the subject RCHE is operated by a private operator known as Sea View Elderly Home. A licence has been granted by the Social Welfare Department (SWD) taken into consideration its facilities, professional man power and management, location, building and design, fire safety, and health-care procedures. The current application is to regularize the subject RCHE use at the Premises.

### **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**

The Town Planning Board Guidelines No. 10 (TPB PG-No. 10) for ‘Application for Development within “GB” Zone under Section 16 of the Town Planning Ordinance’ is relevant to this application. The relevant assessment criteria are summarized as follows:

- (a) There is a general presumption against development (other than redevelopment) in a "GB" zone.
- (b) The design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment.
- (c) The vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features. Tree preservation and landscaping proposals should be provided.
- (d) The proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area.
- (e) The proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution.
- (f) Any proposed development on a slope or hillside should not adversely affect slope stability.

### **5. Background**

- 5.1 The site was covered by the first statutory plan No. LST/17 gazetted on 28.4.1961, and was zoned “GB” where existing uses including very low density housing were permitted to remain. Since then, the zoning of the site remains unchanged.
- 5.2 The existing three-storey building where the Premises is located, was the subject of approved building plans between 1965 and 1970 with building entitlement under the lease issued in 1963 for private residential purpose.

- 5.3 The first licence of the subject RCHE was issued in 2003 in accordance with the standing practice of Social Welfare Department on the licensing requirements. The RCHE was assessed to be in compliance with the four major domains of the requirements include health care, management, building and fire safety. The current RCHE licence for the applied use at the Premises is valid until January 2022.
- 5.4 The subject RCHE is currently operating without a valid planning permission.

## **6. Previous Application (Plan A-2)**

- 6.1 The Premises is not the subject of any s.16 planning application.
- 6.2 The Premises is part of the subject of a previous s.12A rezoning application (No. Y/ST/41) submitted by the same applicant for rezoning a larger site from “GB” to “Residential (Group B)2” for private residential development. That rezoning application was disagreed by the Committee on 10.7.2020 mainly on the considerations that there were insufficient planning merits including the provision of a RCHE as suggested by SWD, to justify the increase in development intensity to a plot ratio of 3.6, and the applicant failed to demonstrate that the proposed development would not be susceptible to adverse noise impacts from the surrounding areas.

## **7. Similar Application**

There is no similar application for social welfare facility (RCHE) in the vicinity of the Premises within the same “GB” zone.

## **8. The Premises and Its Surrounding Areas (Plans A-1 to A-3b)**

- 8.1 The Premises is:
- (a) located on the ground floor, first floor and second floor of an existing 3-storey building over a single-storey carport (known as Sea View Villa Block 2), and is situated at the bottom of Cove Hill, commonly known as Kau To Shan;
  - (b) accessible via a road branching off Tai Po Road (Ma Liu Shui); and
  - (c) currently used as a private RCHE with a RCHE licence valid until January 2022.

8.2 The surrounding areas have the following characteristics:

- (d) to the east is Tai Po Road (Ma Liu Shui). To the further east are Kowloon-Canton Railway (KCR), Tolo Highway and Sha Tin Sewage Treatment Works;
- (e) to the immediate south is another existing 3-storey residential building over a single-storey carport known as 'Sea View Villa Block 1'; and
- (f) to the north, west and south are natural slopes covered with vegetation.

## **9. Planning Intention**

The planning intention of the "GB" zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

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

10.1 The following government departments have been consulted and their views on the application are summarized as follows:

### **Land Administration**

10.1.1 Comments of the District Lands Officer/Shia Tin, Lands Department (DLO/ST, Lands D):

- (a) the Premises is located on Lot 59 RP in D.D. 175, which is governed under New Grant No. 9209 (the New Grant) with a registered site area of 18,000 sq.ft. Under the New Grant, the Lot is restricted for private residential use;
- (b) the proposal under application to use the Premises as 'Social Welfare Facility (RCHE)' is not permitted under the New Grant. Should the application be approved by the Board, owner of the Premises is required to apply for a waiver from LandsD to implement the proposal including the proposed loading/unloading spaces and pick-up/drop-off points. However, there is no guarantee that the waiver application will be approved. Such application, if received, will be considered by LandsD acting in its capacity as landlord at its sole discretion, and any approval given will be subject to such terms and conditions including, inter alia, payment of such waiver and administrative fee(s) as may be imposed by LandsD. The size of the Premises is subject to verification by this office at the stage of processing of waiver application; and

- (c) the Government reserves all rights to take appropriate actions against any irregularities which may be detected in the future, whether they are related to the existing use or the applied use.

### Social Welfare

#### 10.1.2 Comments of the Director of Social Welfare (DSW):

- (a) she has no adverse comment on the application from licensing perspective, and its continual operation is supported;
- (b) Sea View Elderly Home is a private RCHE located at the Premises with licensing capacity of 80 beds and existing capacity of 60 beds. Sea View Elderly Home Limited had submitted its first application for a licence under the Residential Care Homes (Elderly Persons) Ordinance, Cap 459, in 2003. The application was processed by the Licensing Office of Residential Care Homes for the Elderly (LORCHE) according to the requirements and standing procedures of that time. The RCHE, assessed to be in compliance with the four domains of the licensing requirements i.e. health care, management, building and fire safety, was granted with a licence for operation since 7 February 2003; and
- (c) the performance and operation of the RCHE had been reviewed by LORCHE through surprise inspections from time to time. Regarding the track record, there is no conviction or warning records against the RCHE in the past 24 months. The current licence is valid for six months, from 1 August 2021 to 31 January 2022 inclusive in view that the landlord of the Premises has tendered an application for planning permission to the Board and the outcome of the application is still pending, and the Home has been providing generally satisfactory care to the elderly residents.

### Traffic

#### 10.1.3 Comments of the Commissioner for Transport (C for T):

- upon receipt of the FI (**Appendix Ic**) submitted by the applicant to provide further clarifications on the provision of loading/unloading spaces and emergency pick-up and drop-off points for the subject RCHE, she has no further comment on the application from traffic engineering point of view.

10.1.4 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- it is noted that there would have no alteration to any existing public roads, and he has no comment on the application from highways maintenance point of view.

Building Matters

10.1.5 Chief Building Surveyors/New Territories West, Buildings Department (CBS/NTW, BD):

- he has no adverse comment on the application, and his detailed comments are at **Appendix II**.

Fire Safety

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

- he has no specific comment on the application.

Landscape

10.1.7 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, Plan D):

- (a) she has no objection to the application from landscape planning point of view; and
- (b) the Premises is located within an existing 3-storey building in an area of residential urban fringe landscape character surrounded by an existing house and dense vegetation. According to SWD's advice, the subject RCHE has been in operation since 2003. No landscape resource is observed within the site, hence significant adverse landscape impact arising from the application is not anticipated.

Conservation

10.1.8 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- he has no adverse comments on the application as the Premises has been occupied by the applied use at an existing building without involving any clearance of vegetation and trees.

District Officer's Comments

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

- (a) he has no comment on the application; and
- (b) his office has not received any comment from the locals on the application.

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

- (a) Director of Environmental Protection;
- (b) Chief Engineer/Mainland South, Drainage Services Department;
- (c) Director of Food and Environmental Hygiene;
- (c) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department;
- (d) Project Manager/North, Civil Engineering and Development Department; and
- (e) Commissioner of Police.

**11. Public Comments Received During Statutory Publication Period**

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

**12. Planning Considerations and Assessment**

12.1 The application is to regularize the existing 'Social Welfare Facility (RCHE)' use at the Premises falling within an area zoned "GB" on the OZP. The planning intention of the "GB" zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within "GB" zone. Although the applied use is not in line with the planning intention of "GB" zone, DAFC has no adverse comment on the application from nature conservation point of view as the Premises has been occupied by the applied use in an existing building without involving clearance of vegetation and trees.

12.2 The subject RCHE with licensing capacity of 80 beds provides residential care home service for the elderly for the local community. DSW supports the continual operation of the subject RCHE as it has been providing generally satisfactory care to the elderly residents. As advised by DSW, the RCHE is in compliance with the four domains of the licensing requirements including health care, management, building and fire safety. The RCHE has been granted



a RCHE licence by DSW since 2003 for more than 18 years, and the relevant licence is valid until January 2022.

- 12.3 According to the TPB PG-No. 10, the proposed development in the “GB” zone should be compatible with the surrounding areas, and should not involve extensive vegetation clearance and overstrain the capacity of existing and planned infrastructure. The Premises covering a floor area of 627m<sup>2</sup> is located in an existing building without involving clearance of vegetation and trees. The applied use and its scale is not incompatible with the surrounding areas. CTP/UD&L has no adverse comment on the application from landscape planning perspective.
- 12.4 For technical aspects, C for T, DEP, D of FS, CBS/NTW of BD, CE/MN of DSD, CE/C of WSD, H(GEO) of CEDD have no adverse comment on the application. It is envisaged that applied use would not cause adverse impacts on traffic, environment, sewerage, drainage, water supply and geotechnical aspects. In view of the small scale of the applied use, significant adverse impact on existing infrastructure is not anticipated.
- 12.5 The Premises is not the subject of any previous s.16 planning application and there is no similar application within the same “GB” zone for the applied use. However, the Premises is part of a previous s.12A rezoning application No. Y/ST/41 for pure private residential development as stated in paragraph 6.2. The planning circumstances of the previous rezoning application are different from the current application.
- 12.6 No public comment was received during the statutory public inspection period.

### **13. Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12 above, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, no time clause for commencement for the development is proposed as the social welfare facility (RCHE) use under application is already in operation.

#### Advisory Clauses

The recommended advisory clauses are attached at **Appendix II**.

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

### **14. Decision Sought**

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

- 14.2 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.
- 14.3 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.

## **15. Attachments**

<b>Appendix I</b>	Application form received on 11.8.2021
<b>Appendix Ia</b>	FI dated 24.8.2021
<b>Appendix Ib</b>	FI dated 3.9.2021
<b>Appendix Ic</b>	FI dated 16.11.2021
<b>Appendix II</b>	Recommended advisory clauses
 <b>Drawings A-1 to A-3</b>	 Floor plans submitted by the applicant
 <b>Plan A-1</b>	 Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3a and 3b</b>	Site Photos

**PLANNING DEPARTMENT  
DECEMBER 2021**