

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K10/261

- Applicant** : New Harbour Hotel Limited represented by Z Design Limited
- Site** : 349 Prince Edward Road West, Kowloon (Kowloon Inland Lot (KIL) Nos. 4011 s.A and 4168 s.A ss.2)
- Site Area** : About 582.925m²
- Lease** : (a) KIL No. 4011 s.A governed by a Government lease dated 13.7.1939 for a term of 75 years commencing from 2.5.1938 renewable for a further term of 75 years
(b) KIL No. 4168 s.A ss.2 governed by Conditions of Sale No. 3961 for a term of 75 years commencing from 24.7.1939 renewable for a further term of 75 years
(c) Subject to the following salient lease conditions:
- not erecting any building other than a dwelling house or dwelling houses of European Type (for KIL No. 4011s.A) / semi-detached houses of European Type (for KIL No. 4168 s.A ss.2);
- height of building not exceeding 35 feet except with the consent of the Director of Lands; and
- not erecting any building within 20 feet of Prince Edward Road (for KIL No. 4011s.A) / 10 feet of Forfar Road (for KIL No. 4168 s.A ss.2).
- Plan** : Draft Ma Tau Kok Outline Zoning Plan (OZP) No. S/K10/25 (currently in force)

Approved Ma Tau Kok OZP No. S/K10/24 (in force at time of submission)
- Zoning** : “Residential (Group B)” (“R(B)”)

[Maximum plot ratio (PR) of 5.0 and maximum building height (BH) of 80mPD, or the plot ratio (PR) and BH of the existing building, whichever is the greater]
[No change to the subject “R(B)” zone under OZP No. S/K10/25]
- Application** : Proposed Social Welfare Facility (Residential Care Home for the Elderly)

1. The Proposal

1.1 The applicant seeks planning permission for a new building for Residential Care Home for the Elderly (RCHE) use at 349 Prince Edward Road West, Kowloon (the Site) (**Plan A-1**). The Site falls within an area zoned “R(B)” on the draft Ma Tau Kok OZP No. S/K10/25. According to the Notes of the OZP, ‘Social Welfare Facility’ is a Column 2 use in the “R(B)” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently used for parking of vehicles.

1.2 According to the submission, the proposed development are as follows:

Site Area	About 582.925m ²
Site Coverage	49%
Gross Floor Area (GFA)	About 2,285.056 m ²
Plot Ratio (PR)	About 3.92
Building Height (BH)	27m / 36.108mPD
No. of Storey	8 storeys
No. of Beds	91
No. of Parking Space	1 Disabled Car Parking Space (5m x 3.5m with headroom of 2.4m)
No. of Loading/Unloading (L/UL)	1 lay-by for share use by taxi/private car, ambulance, light goods vehicle and mini coach (9m x 3.5m with headroom of 3.6m)
Floor Uses	G/F: entrance lobby, ancillary office, kitchen, activity rooms
	1/F to 7/F: rooms for RCHE

1.3 The proposed RCHE has vehicular accesses on Prince Edward Road West, and its proposed total PR and BH are in compliance with the PR and BH restriction for “R(B)” zone.

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application form with supplementary information and plans received on 29.3.2019 **(Appendix I)**
- (b) Supplementary information received on 1.4.2019, and Traffic Impact Assessment (TIA) and Sewerage Impact Assessment (SIA) received on 4.4.2019 **(Appendices Ia-i & Ia-ii)**
- (c) Further Information (FI) received on 16.7.2019 providing revised floor plans and sectional plan, responses to departmental comments, revised TIA and SIA, and a new Environmental Assessment (EA) (Air Quality Impact Assessment) [FI(1)] ** **(Appendix Ib)**

- (d) FI received on 2.8.2019 providing technical clarification/responses to address Transport Department (TD)'s comments [FI(2)] **(Appendix Ic)**
- (e) FI received on 5.11.2019 providing information to address departmental and public comments, a revised SIA and a revised EA [FI(3)] ** **(Appendix Id)**
- (f) FI received on 29.11.2019 providing information to address departmental comments [FI(4)] **(Appendix Ie)**
- (g) FIs received on 11.12.2019 and 12.12.2019 providing information to address departmental comments, replacement pages for EA and SIA, and minor rectifications on floor plans and section plan [FI(5)] **(Appendix If)**
- (h) FI received on 23.12.2019 providing information to address departmental comments and replacement pages for SIA [FI(6)] **(Appendix Ig)**

*[** Not exempted from publication and recounting requirements.]*

1.5 At the request of the applicant, the Committee on 17.5.2019 and 6.9.2019 agreed to defer a decision for two months respectively so as to allow more time for the applicant to submit FIs to address departmental comments. Upon receipt of the FI on 5.11.2019, the application is scheduled for consideration for the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application as set out in the supplementary planning statement and FIs in **Appendices I to Ig** are summarized as follows:

Demand for RCHE

- (a) As set out in the 2019-20 Budget, the Government is expected to launch a scheme to provide more than 500 additional residential care places and 300 subsidized day care places for the elderly. The Government will also allocate \$1.36 billion to the scheme in the next two years. The proposed RCHE is in line with the Government's plan in providing more residential care places and subsidized day care places for the elderly in the long run.
- (b) There is a market need to provide residential care places for elderly and the proposed RCHE can relieve the demand for welfare services in densely-populated areas. Furthermore, employment rate of relevant professional services, such as social workers, nurses and physiotherapists, etc can be enhanced.

Land Use Compatibility

- (c) The proposed elderly home use at the Site is compatible with the surrounding context.

Insignificant Traffic, Environmental and Sewerage Impacts

- (d) The TIA conducted for the Site concluded that the proposed RCHE results in no adverse traffic impact to the local network and junctions because less traffic is generated during the AM peak hour in comparison with a hypothetical residential development, and the same level of traffic is generated during the PM peak hour.
- (e) The SIA confirmed that the proposed RCHE would not result in any unacceptable sewerage impacts. The EA concluded that there will be no adverse or unacceptable vehicular emission impact, road traffic noise impact and there are no major fixed noise sources identified from the surrounding uses or to be generated at the proposed RCHE.

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. Previous Application

There is no previous application at the Site.

5. Similar Applications

There is no similar application for the same use within “R(B)” zones on the Ma Tau Kok OZP.

6. The Site and Its Surrounding Areas (Plans A-1 and A-2 and site photos on Plans A-3 to A-4)

6.1 The Site is:

- (a) located at the southern side of Prince Edward Road West and to the west of Junction Road and Stirling Road in Kowloon City. It is currently used for parking of vehicles; and
- (b) accessible via Prince Edward Road West which is served by public transport facilities, e.g. buses and green minibus (GMB).

- 6.2 The surrounding areas have the following characteristics (**Plans A-1 and A-2**):
- (a) the site is surrounded by mostly medium-rise residential developments on land zoned “R(B)” with residential buildings, including Woodland Villa, Ka Wah Court and Blue Haven within the same street block; the four-storey building adjoining the east of the Site is being used by three RCHEs¹;
 - (b) to its further northeast is the Kowloon City area, a residential area zoned “R(A)2” with low and medium-rise residential developments with ground floor shop uses. Some sites had been redeveloped into newer high-rise residential developments (**Plan A-1**);
 - (c) to its northwest is Kowloon Ling Liang Church and low to medium-rise residential developments in the Kowloon Tong Planning Area; and
 - (d) to its further west are St. Teresa’s Hospital, Hong Kong Eye Hospital, clinics and other medical facilities within the Ho Man Tin Planning Area.

7. Planning Intention

The “R(B)” zone is intended primarily for medium-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Town Planning Board.

8. Comments from Relevant Government Departments

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

Land Administration

- 8.1.1 Comments of the District Lands Officer/Kowloon East, Lands Department (DLO/KE, LandsD):

- (a) the Site falls within KIL No. 4011 s.A and KIL No. 4168 s.A ss.2. KIL No. 4011 s.A is governed by a Government lease dated 13.7.1939 for a term of 75 years commencing from 2.5.1938 and renewable for a further term of 75 years. KIL No. 4168 s.A ss.2 is governed by Conditions of Sale No. 3961 for a term of 75 years commencing from 24.7.1939 and renewable for a further term of 75 years;

¹ The Occupation Permit for domestic use in this building (at 351 Prince Edward Road West) was issued on 25.5.1993. The licenses for all three RCHEs have been issued by SWD since 1997, 1998 and 1999 respectively. The site is not the subject of planning application for RCHE use.

- (b) the above Government lease and Conditions of Sale contains, inter alia, the following respective sets of salient conditions:

For KIL No. 4011 s.A

- not erecting any building other than a dwelling house or dwelling houses of European Type;
- minimum curtilage restriction of not less than 8,000 square feet;
- height of building not to exceed 35 feet except with the consent of the Director; and
- not erecting any building within 20 feet of Prince Edward Road.

For KIL No. 4168 s.A ss.2

- not erecting any building except detached or semi-detached houses of European Type;
- minimum curtilage restriction of not less than 8,000 square feet;
- not erecting any building within 10 feet of Forfar Road; and
- height of building not exceeding 35 feet except with the consent of the Director;

- (c) the proposed 8-storey RCHE is in contravention of the user, BH and curtilage restrictions of the above lease conditions. As such, if the subject application is approved by the Board, the applicant shall apply to LandsD for lease modification to implement the proposal. However, there is no guarantee that the lease modification would be granted or approved, which, if granted or approved by LandsD in the capacity of a landlord, shall be subject to such terms and conditions including payment of premium and administrative fee as may be considered appropriate by LandsD; and
- (d) advice was given for the applicant to demonstrate the carving out history of the parent lots of KIL 4011 and KIL 4168. He reserves his comments on the existing site area and proposed GFAs quoted in the planning statement until more information is available at the stage of lease modification application.

Traffic

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

with reference to the submitted TIA and the proposed parking and L/UL facilities, he has no adverse comment on the application regarding the traffic impact and transport provision from traffic engineering point of view.

Environment

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

- (a) he has no objection to the application from environmental perspectives (including noise, air quality and sewerage).

According to the EA, the applicant confirmed that the fresh air intake will be located beyond 20m from Prince Edward Road West to meet the relevant buffer distance requirement of the Hong Kong Planning standards and Guidelines (HKPSG) and 0.5m vertical fin will be erected at the north-western corner of the proposed development as noise mitigation measure to meet relevant noise criteria. *Should the Committee approves the application, the applicant should submit an updated Noise Impact Assessment (NIA) and implement the noise mitigation measures identified therein for the proposed development;* and

- (b) in view of the public comments received, the applicant is advised to observe the requirements of the Noise Control Ordinance and avoid/minimise adverse noise impact or noise nuisance to the nearby noise sensitive receivers.

Social Welfare

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

- (a) he has no in-principle objection on the application subject to there being no capital or recurrent financial implication to the Government. He noted that the design and construction of the proposed RCHE shall comply with all relevant licensing and statutory requirements including but not limited to the Buildings Ordinance (BO) (Cap. 123), Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) and its subsidiary legislation and Code of Practice for Residential Care Homes (Elderly Persons) [March 2013(Revised Edition)];
- (b) the applicant should be reminded that in accordance with section 20(1) of the Residential Care Homes (Elderly Persons) Regulation, no part of a residential care home shall be situated at a height more than 24 metres above ground floor, measuring vertically from the ground of the building to the floor of the premises in which the residential care home is to be situated; and
- (c) the demand for subsidised residential care services (RCS) for the elderly over the territory is keen, for example the average waiting time for subsidised care-and-attention home places and nursing home places are 19 months and 22 months respectively.

Urban Design

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

the Site on Prince Edward Road West is a narrow and elongated lot of only 9.8m wide sandwiched between two existing buildings. The proposed RCHE will be built to 8 storeys (36.1mPD) and PR of 3.92, which is below the BH and PR permissible under the “R(B)” zone. In this regard, he has no particular concern on the application from a visual

impact and urban design point of view.

Building Matters

8.1.6 Comments of the Chief Building Surveyor/Kowloon (CBS/K), BD:

- (a) he has no objection to the application;
- (b) all building works are subject to compliance with the BO;
- (c) a RCHE which is for habitation is a domestic use under the BO;
- (d) an Authorized Person (AP) should be appointed to submit building plans to demonstrate compliance with the BO including (but not limited to) the following:
 - adequate means of escape shall be provided to the subject premises in compliance with Building (Planning) Regulation (B(P)R) 41(1);
 - access and facilities for use by persons with a disability shall be provided in compliance with B(P)R 72 and Design Manual: Barrier Free Access 2008;
 - service lane shall be provided in compliance with B(P)R 28; and
 - the prescribed windows for habitation shall face into external air in compliance with B(P)R 31; and
- (e) his comments on the building proposal would be subject to application for the approval under the BO.

Fire Safety

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

- (a) based on the submitted information, he has no in-principle objection to the application subject to fire service installations and water supplies for firefighting being provided to the satisfaction of the Fire Services Department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plan; and
- (b) the applicant is reminded that the height restrictions as stipulated in Section 20(1) of “Residential Care Homes (Elderly Persons) Regulation, Cap. 459A” shall be observed.

District Officer’s Comments

8.1.8 Comments of the District Officer (Kowloon City), Home Affairs Department (DO(KC), HAD):

he has no comment on the planning application and notes that PlanD has notified the interested Kowloon City District Council Members, the Lung Tong Area Committee as well as the Owners Committee/Mutual Aid Committees/management committees of buildings near to the Site on the planning application. The Board should take into account all the comments gathered in the decision making process. Should the application be approved, the applicant should take appropriate measures to address the residents' concerns.

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

- (a) Commissioner of Police (C of P);
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Chief Architect/CMD2, Architectural Services Department;
- (d) Chief Highway Engineer/Kowloon, Highways Department;
- (e) Chief Engineer/Mainland South, Drainage Services Department; and
- (f) Director of Food and Environmental Hygiene (DFEH).

9. Public Comments Received During Statutory Publication Period

9.1 The application and the FIs were published for public inspection on 9.4.2019, 23.7.2019 and 15.11.2019. During the three statutory public inspection periods, a total of 41 comments, including 40 opposing comments (among them, one with 60 signatures and another one with 8 signatures enclosed) (**Appendix IIa**) and one expressing view (**Appendix IIb**) were received.

9.2 The main comments/views were from various Owners' Corporations of nearby buildings, including those abutting the Site within the same street block, and individuals as summarised below:

- (a) the proposed development of eight storeys is not compatible with the surrounding. The proposed RCHE would worsen the "wall effect" between Forfar Road and Stirling Road and lead to adverse visual impact;
- (b) the proposed development is not in line with the planning intention of the "R(B)" zone. Prince Edward Road area is primarily a residential area and the Site should be retained for residential use to increase housing supply;
- (c) there are sufficient supply of RCHEs in the vicinity, and proposed RCHEs are also planned in Kai Tak area nearby. There are concerns that concentration of RCHEs would frustrate the long term development of the area;
- (d) existing RCHEs have generated adverse noise, hygiene and privacy impacts to residents nearby. As the Site is situated in close proximity with nearby residences and the proposed design lack sufficient buffer area, these issues are likely to worsen and put a strain on local medical and emergency service;

- (e) considering the design of the proposal, the Site is too small to provide sufficient activity space for the users. Furthermore, the proposed design of eight storeys and two lifts also raise fire safety concerns as it may be difficult for elderly residents to evacuate during emergency;
- (f) considering that existing roads are narrow with RCHEs nearby, the proposed development would further aggravate traffic congestion problem with more frequent use of ambulance services which would take a long time to handle unwell elderly residents; and
- (g) more ancillary transport facilities and parking spaces, especially emergency loading dock for ambulances and other emergency vehicles, should be provided to avoid obstruction to traffic on Prince Edward Road West.

10. Planning Considerations and Assessments

Development Intensity/Planning Intention

- 10.1 The applicant proposes a 91-place RCHE in a new 8-storey building (36.1mPD) at the Site that is zoned “R(B)” on the OZP. The proposed GFA is about 2,285m² (PR of 3.92). The proposed total PR and BH of the RCHE is well within the PR restriction of 5.0 and BH of 80mPD for the “R(B)” zone.
- 10.2 While the proposed RCHE is not entirely in line with the planning intention of the “R(B)” zone to provide residential flats, it can provide residential care accommodation for the elderly to meet the keen demand for the aged.
- 10.3 According to the HKPSG provision requirement, there is surplus of about 280 existing and 180 planned subsidised RCHE beds within the Ma Tau Kok Planning Area². However, on a territorial basis, DSW confirms that the demand for subsidised RCS for the elderly is keen, and the average waiting time for care-and-attention home places and nursing home places are 19 months or above.

Land Use Compatibility

- 10.4 The Site is located in an urban area predominantly occupied by medium-density residential developments interspersed with existing RCHEs, hospitals, medical facilities and institutional uses. Whilst the street blocks south of Prince Edward Road West are predominately residential, the Kowloon City area to the north side of Prince Edward Road West is dominated by residential buildings with ground floor shops. It is also noted that three RCHEs are being operated in the abutting site. Given the varied uses in the surroundings, the proposed RCHE is considered not incompatible in land use terms.

² According to HKPSG, the standard provision of residential care services is 21.3 subsidised beds per 1,000 elderly persons aged 65 or above.

Technical Aspects

- 10.5 The applicant has submitted relevant technical assessments (TIA, SIA and EA) which confirmed that there will be no significant adverse traffic, sewerage and environmental impacts, and noise mitigation measures and internal transport facilities are proposed on the development. As the BH and PR of the proposed development is well within the permissible restrictions under the OZP, CTP/UD&L has no particular concern from a visual impact and urban design perspective. Relevant departments consulted including C for T, DEP, D for FS, DSW, CE/C of WSD, CE/MS of DSD and CHE/K of HyD have no objection to the application from various technical aspects.

Public Comment

- 10.6 A total of 41 public comments were received during the statutory publication periods, with main comments/views are set out in paragraph 9.2 above. Regarding concerns on adverse noise and hygiene impacts generated by RCHEs, DEP and DFEH advise that RCHEs are unlikely to create noise or hygiene impacts. Regarding the concerns on fire safety concerns, activity space and design raised in the public comments, the proposed RCHE at the Site will be required to comply with requirements of relevant Government departments and regulations (e.g. BO, Residential Care Homes (Elderly Persons) Ordinance and relevant codes of practices). Regarding the remaining reasons for objecting the application, the above assessment is relevant, and DEP, C for T and C of P have no adverse comments on the traffic and environmental impacts of the application.

11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10 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 the permission shall be valid until 3.1.2024, 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 condition of approval and advisory clauses are also suggested for Members' reference:***

Approval Condition

The submission of an updated Noise Impact Assessment and the implementation of the noise mitigation measures identified therein for the proposed development to the satisfaction of the Director of Environmental Protection or of the Town Planning Board.

Advisory Clauses

11.3 The advisory clauses suggested for Members' reference are attached at **Appendix III**.

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

the proposed Social Welfare Facility (Residential Care Home for the Elderly) is not in line with the planning intention of "Residential (Group B)" zone which is intended primarily for medium-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 with supplementary information and plans received on 29.3.2019
Appendices Ia-i & Ia-ii	Supplementary information received on 1.4.2019 and 4.4.2019
Appendix Ib	FI received on 16.7.2019
Appendix Ic	FI received on 2.8.2019
Appendix Id	FI received on 5.11.2019
Appendix Ie	FI received on 29.11.2019
Appendix If	FIs received on 11.12.2019 and 12.12.2019
Appendix Ig	FI received on 23.12.2019
Appendices IIa to IIb	Public comments received during the statutory publication periods
Appendix III	Advisory clauses
Drawing A-1 to A-3	Floor Plans
Drawing A-2	Section Plan
Drawing A-3	Proposed Internal Transport Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3 to A-4	Site Photos