

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM/511

<u>Applicant</u>	Graceful Home Limited
<u>Site</u>	300 Tsz Tin Tsuen, Tuen Mun, N.T. (Lots. 108 S.B ss.1 and ss.2 in D.D. 132)
<u>Site Area</u>	About 363.4m ²
<u>Lease</u>	(a) Block Government Lease (demised for agricultural use) (b) Building Licence for non-industrial purpose at Lot 108 S.B ss.1 in D.D.132
<u>Plan</u>	Approved Tuen Mun OZP No. S/TM/33 (in force at the time of submission) Draft Tuen Mun Outline Zoning Plan (OZP) No. S/TM/34 (currently in force. The zoning and development restrictions for the Site remain unchanged)
<u>Zoning</u>	“Village Type Development” (“V”) [Restricted to a maximum building height of 3 storeys (8.23m)]
<u>Application</u>	Social Welfare Facility (Residential Home for People with Disabilities) (RCHD)

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a social welfare facility (RCHD). The Site falls within an area zoned “V” on the draft Tuen Mun OZP No. S/TM/34. According to the Notes of the OZP, ‘Social Welfare Facility’ use is under Column 2 within the “V” zone which requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site is currently occupied by a New Territories Exempted House (NTEH) (i.e. at Lot 108 S.B ss.1 in D.D.132) and is currently used for the applied use without valid planning permission. The Site is not involved in any previous application (**Plans A-1 to A-4c**).
- 1.3 The major development parameters of the application are given in the following table:

Site Area (m ²)	363.4
Total Floor Area (m ²)	195.09
Plot Ratio	0.53
Site Coverage (%)	17.89
No. of Blocks	1
No. of Storeys	3
Building Height (m)	8.23
No. of Beds in the NTEH	25 (16 beds are currently occupied)
Private open space (m ²)	298.37
No. of Parking Space	
• <i>Private Car/Light Goods Vehicle Parking Space</i>	1
• <i>Loading/Unloading (L/UL) Space</i>	2

- 1.4 According to the applicant, the subject NTEH with a total gross floor area of about 195.09m² provides 25 beds (with 16 beds currently occupied) for people with physical and mental disabilities. The Site is accessible from Hong Po Road via local road (**Plan A-3**). One parking space for private car and two L/UL bays have been provided within the Site. Plan showing the vehicular access of the Site, layout plan and floor plans of the RCHD are at **Drawings A-1 to A-5**.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form with attachments received on 12.9.2017 (**Appendix I**)
 - (b) Further information (FI) dated 7.12.2017 including responses to departmental comments (**Appendix Ia**)
 - (c) FI dated 13.12.2017 providing responses to comments of Environmental Protection Department (**Appendix Ib**)
- 1.6 On 10.11.2017, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for two months as requested by the applicant so as to allow time for applicant to address departmental comments. Subsequently, the applicant submitted FI on 7.12.2017 (**Appendix Ia**) and the application is scheduled to be considered at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the attachment 10 of the Application Form in **Appendix I**. They can be summarised as follows:

- (a) The applicant has been operating residential homes for people with disabilities to serve people with mental disabilities and ex-mental patients since 2005.
- (b) The applied use eases the burdens on the society and the residents' family by improving the self-care abilities and life-skills of the residents.

- (c) The applied use provides religious activities to enrich the mental life of the residents.
- (d) Repair works have been carried out to rectify the minor leakage from the sewerage pipe as observed by Drainage Services Department.

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

The applicant is not a ‘current land owner’ and has obtained consents of the ‘current land owners’. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Application

The Site was not involved in any previous application.

5. Similar Application

There is no similar application within the same “V” zone.

6. The Site and Its Surrounding Areas (Plans A-1 to A-4c)

6.1 The Site is:

- (a) partly occupied by a NTEH (i.e. Lot 108 S.B ss.1 in D.D.132) for the applied use without valid planning permission with a piece of vacant land (i.e. Lot 108 S.B ss.2 in D.D. 132) in the south for parking and loading/unloading purposes (**Plan A-2** and Photo 3 in **Plan A-4a**); and
- (b) accessible to Hong Po Road via local road (**Plan A-3**).

6.2 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) predominantly rural in character with a mix of uses, including scattered residential structures, vacant land, vehicle parks, open storage yards and workshops;
- (b) to its immediate east is a fenced vacant land. To the further east are residential structures, an open storage of construction materials and other storage yards;
- (c) to its immediate south is a workshop. To the further south are residential structures, an orchard, open storages of construction materials, wrecked buses and plastic materials;
- (d) to its immediate west is an area used for parking of heavy goods vehicles and trailers. The further west are vehicle repair workshops, a vehicle service workshop, residential structures and vacant land;

- (e) to its immediate north is an area used for parking of vehicles and a vehicle repair workshop. The further north are a grocery shop, an open storage for construction materials, residential structures and vehicle parks and car washing service workshop.

7. Planning Intention

The planning intention of the “V” zone is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government project. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

8. Comments from Relevant Government Departments

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

Land Administration

- 8.1.1 Comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) Lot Nos. 108 S.B ss.1 and 108 S.B ss.2 in D.D. 132 (‘the Lots’) are held under the Block Government Lease (demised for agricultural use). Building Licence No. 1481 was granted for erection of a Small House on Lot 108 S.B ss.1 in D.D. 132. Erection of other structure(s) on the Lot(s) is not allowed under the lease unless written consent of his office has been obtained.
- (b) The structure on the Lot 108 S.B ss.1 in D.D. 132 is a Small House which is covered by the Building Licence No. BL1481 for non-industrial use. Use for Residential Home for People with Disabilities does not contravene the permitted use under the Building Licence.
- (c) According to his record, there is no Small House application within the Site and its close vicinity.
- (d) The Site is surrounded by private lots, his office does not guarantee any right-of-way to the Site nor provide maintenance to the access road.

Social Welfare

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

- (a) The Residential Care Homes (Persons with Disabilities) Ordinance (the Ordinance) (Cap. 613) has come into operation since 18 November 2011, providing for the control of residential home for persons with disabilities (RCHDs) through a licensing scheme administered by him. Under the Ordinance, RCHDs must be operated with a licence or certificate of exemption (CoE) and its operation must comply with the statutory requirements in respect of management, health care services, building and fire safety. CoEs are issued to RCHDs that existed preceding the commencement of the Ordinance but are not yet able to fully comply with the licensing requirements, so as to allow time for them to carry out improvements in compliance with the licensing requirements and standards.
- (b) The subject RCHD, i.e. Graceful Home Rehabilitation Hostel, has been operating at the Site since June 2011 before the commencement of the Ordinance. It is now providing residential care service to persons with disabilities with a licensing capacity of not more than 25 beds. The RCHD was issued with a CoE by him on 1 May 2013 in accordance with the Ordinance with conditions of improvements for full compliance with the licensing requirements, including seeking planning permission from the Board to use the Site for operating a RCHD.
- (c) A licence will be issued on satisfactory completion of the improvements required and compliance with the aforesaid conditions. In this connection, he should be grateful for the Board's consideration of the application so that the RCHD may continue to provide service to persons with disabilities who are in need of residential care

Environment

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

- (a) He does not support the application.
- (b) The application site is for a 25-bed residential home for people with disability (rehabilitation facility) within the "V" zone of the draft Tuen Mun OZP No. S/TM/34.
- (c) The application site is outside water gathering ground. The facility is required to obtain a license under the Water Pollution Control Ordinance (WPCO). While the applicant has commenced his application for a license under WPCO for the septic tank and soakaway system, however, DEP noted that not all wastewater and sewage from the premises are properly disposed of. According to the applicant, the planned sewerage improvement works to enable compliance and issue of licence under WPCO could not be completed until early 2019. He

is unable to support the application at this stage as he is concerned about potential discharge of wastewater into the nearby stream course.

- (d) Regarding the public comment on odour problem, he has inspected the application site twice. No odour or abnormal wastewater discharge was spotted in his inspections on the sewage pipes connecting the toilet facilities. He also understands that the applicant is making an application for the WPCO licence.

Traffic

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

- (a) He has no comment on the application from the traffic engineering viewpoint having considered the FI submitted by the applicant.
- (b) The local village road outside the run-in/out of the Site is not managed by Transport Department (TD).

8.1.5 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The access arrangement to the Site from Hong Po Road should be commented by the TD.
- (b) The vehicular access connecting Hong Po Road to the Site is not maintained by HyD. HyD will not take up the maintenance of the vehicular access.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Drainage

8.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

With regard to the public concern on odour, as the repair of defective sewerage pipe was completed on 3 November 2017, there is no further comment on the application from sewerage viewpoint.

Landscape

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

- (a) He has no objection to the application and has the following advisory comments:
 - (i) all existing trees and landscape plantings within the Site should be maintained at all times;

(ii) the applicant shall make reference to the following information/guideline published by the Greening, Landscape and Tree Management (GLTM) Section of Development Bureau for tree maintenance:

- ‘Information About Tree Maintenance For Private Properties’;
- and
- ‘Pictorial Guide for Tree Maintenance’

Building Matters

8.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) There is no record of approval by the Building Authority for the structures existing at the Site and BD is not in a position to offer comments on their suitability for the applied use under application.
- (b) If the existing structure is a NTEH under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121 or the then Cap. 322), DLO/TM, LandsD should be in a better position to comment on the application.
- (c) If the existing structure (not being a NTEH) is erected on leased land without the approval of the BD, they are Unauthorized Building Works (UBW) under the Buildings Ordinance (BO) and should not be designated for the applied use under application.
- (d) Before any new building works (including shelters, toilet, containers as temporary buildings and connection of drains) are to be carried out on the Site, prior approval and consent of the BD should be obtained. Otherwise, they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) If the applied use under application is subject to the issue of a license, the applicant should be reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.
- (f) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of Building (Planning) Regulations (B(P)R) respectively.
- (g) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

- (h) The Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613) regulates residential care homes for persons with disabilities (RCHDs) by a licensing system administered by SWD. A RCHD, which is for habitation, is a domestic use under the BO. All habitable rooms should be provided by adequate natural lighting and ventilation in accordance with Regulations 30, 31 and 32 of the B(P)R.
- (i) Detailed comments will be provided at building plan submission stage.

Water Supply

8.1.9 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) For provision of water supply to the developments, the applicant may need to extend the inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

Fire Safety

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

- (a) He has no in principle objection to the application subject to water supplies for firefighting and fire service installations being provided to his satisfaction.
- (b) Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans or referral from relevant licensing authority.

Others

8.1.11 Comments of the Director of Electrical and Mechanical Services (DEMS):

He has no particular comment on the application from electricity supply safety aspect. However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organising and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when

carrying out works in the vicinity of the electricity supply lines.

District Officer's Comments

8.1.12 Comments of the District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD):

She had distributed consultation letters to the locals concerned and understood that they would provide their comments (if any) to the Board direct.

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

- (a) Chief Engineer/Land Works, Civil Engineering and Development Department (CE/LW, CEDD);
- (b) Antiquities and Monuments Office, Leisure and Cultural Services Department (AMO, LCSD);
- (c) Director of Leisure and Cultural Services (DLCS);
- (d) Director of Agriculture, Fisheries and Conservation (DAFC);
- (e) Project Manager (New Territories West), Civil Engineering and Development Department (PM(NTW), CEDD);
- (f) Director of Food and Environmental Hygiene (DFEH); and
- (g) Commissioner of Police (C of P).

9. Public Comments Received During Statutory Publication Period

On 19.9.2017, the application was published for public inspection. During the three weeks of the statutory public inspection period, which ended on 10.10.2017, one public comment was received mainly expressing concerns that there was odour coming from the sewer of the Site (**Appendix II**).

10. Planning Considerations and Assessments

10.1 The application is for a social welfare facility (RCHD) which is already in operation. The Site falls within the "V" zone which is primarily intended to develop Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructure and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

10.2 As advised by DSW, the RCHD at the Site has been in service since June, 2011. It provides service to persons with disabilities who are in need of residential care. Since the RCHD Ordinance (Cap. 613) has come into operation on 18 November 2011, the RCHD is required to obtain a licence or CoE and its operation must comply with the statutory requirements in respect of management, health care

services, building and fire safety. The RCHD was issued with a CoE by SWD on 1 May 2013 and obtaining planning permission is part of the conditions of the CoE. While the development is not entirely in line with the planning intention of the “V” zone, the applied development could nevertheless provide residential care home services to persons with disabilities.

- 10.3 The Site is located within an area predominately rural in character with scattered residential structures, vacant land, vehicle parks, open storage yards and workshops. The applied development is considered not incompatible with the existing uses in the surrounding areas and the planned use in the “V” zone. In this regard, DEP did not point out any potential environmental problems that the RCHD may be subject to.
- 10.4 Relevant departments consulted including C for T, CE/MN of DSD and D of FS have no objection to the application. Significant adverse traffic and drainage impacts on the surrounding areas and fire safety concern are not anticipated. However, DEP does not support the application because currently not all wastewater from the RCHD is properly disposed of. While the applicant has made an application for a license under WPCO, he indicated that the planned sewerage improvement works to enable compliance and issue of license could not be completed until early 2019. DEP is thus unable to support the application at this stage as he is concerned about the potential discharge of wastewater into the nearby stream course. However, the wastewater issue should be dealt with under the WPCO. Improper discharge of wastewater can be rectified under the licensing system under the WPCO. In fact, the applicant is also applying for WPCO licence. Besides, DAFC does not raise concern on the possible impact on the stream course from the ecological perspective. Should the application be approved, the applicant should be advised to rectify the improper wastewater discharge and fulfil the requirements of WPCO.
- 10.5 There was one public comment received from a member of the public expressing concern about the odour generated from the sewer of the Site. The departmental responses in paragraphs 8.1.3 (d) and 8.1.6 are relevant.

11. Planning Department’s Views

- 11.1 Based on the assessment made in paragraph 10 and having taken into account the public comment mentioned in paragraph 9, the Planning Department has no objection to the application.
- 11.2 Should the Committee decide to approve the application, no time clause for commencement for the development is proposed as the social welfare facility (residential home for people with disabilities) use under application is already in operation. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the submission and implementation of fire service installations proposal within 6 months to the satisfaction of the Director of Fire Services or of the Town Planning Board by **26.7.2018**;

- (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 III**.

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

The applicant fails to demonstrate that the social welfare facility (RCHD) would not cause adverse impact on the water quality of the nearby stream course.

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 conditions and advisory clauses, if any, to be attached to the permission.
- 12.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

13. Attachments

Appendix I	Application form with attachments received on 12.9.2017
Appendix Ia	FI received on 7.12.2017
Appendix Ib	FI received on 13.12.2017
Appendix II	Public comment received during the statutory publication period
Appendix III	Recommended advisory clauses
Drawing A-1	Location plan showing vehicular access
Drawing A-2	Layout plan
Drawings A-3 to A-5	Floor plans
Plan A-1	Location plan
Plan A-2	Site plan

Plan A-3 Aerial photo

Plans A-4a to A-4c Site photos

**PLANNING DEPARTMENT
JANUARY 2018**