

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL/263

- Applicant** : Brilliant Great Investment Limited represented by DeSPACE (International) Limited
- Site** : Lots 1695 S.D RP, 1741 RP and 1394 S.B RP (Part) in D.D. 120 and adjoining Government Land (GL), Tai Kei Leng, Yuen Long, New Territories (NT)
- Site Area** : 3,380.8m² (including GL of about 682.4 m² or 20.2%)
- Lease** : Old Scheduled Agricultural lots (*lease is untraceable*)
- Plan** : Draft Yuen Long Outline Zoning Plan (OZP) No. S/YL/24 (currently in force)

Approved Yuen Long OZP No. S/YL/23 (at the time of submission)
- Zonings** : “Village Type Development” (“V”) (about 98.34 %); and
*[restricted to a maximum building height of 3 storeys (8.23m)]*¹
area shown as ‘Road’ (about 1.66 %)
[no change in the zonings]
- Application** : Proposed Social Welfare Facility (Residential Care Home for the Elderly)

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a proposed social welfare facility (residential care home for the elderly (RCHE)) (**Drawing A-1**). According to the Notes for the “V” zone, ‘Social Welfare Facility’ is a Column 2 use and planning permission from the Town Planning Board (the Board) is required. The Site is currently occupied by the Hang Heung Bakery Workshop (**Plan A-3**).

¹ According to the Notes of the OZP, the building height restriction is applicable to ‘House’ use only, but not applicable to ‘Social Welfare Facility’ use.

1.2 The Site is accessible via Shap Pat Heung Road and Tai Tong Road (**Plan A-1**). According to the applicant, the proposed RCHE involves a 6-storey building comprising about 320 to 380 beds with a total gross floor area (GFA) not exceeding 5,400m² and maximum building height (BH) of 28.7mPD. The site plan, proposed floor plans and section plan submitted by the applicant are shown in **Drawings A-1 to A-7**.

1.3 The major development parameters of the proposed RCHE are given in the following table:

Site Area	3,380 m ² (including GL of 682.4 m ²)
Total GFA	not exceeding 5,400 m ² (including RCHE and ancillary uses*)
Plot Ratio (PR)	about 1.6
No. of building block	1
Number of beds	320 to 380
Maximum BH (absolute height)	28.7mPD (22m)
Number of Storey	not exceeding 6
Open Space	500 m ²
<u>No. of Parking Spaces</u> for private car	8 (including 1 parking space for disabled person)
<u>Loading/unloading (L/UL) bay</u> for shuttle bus	1
for light goods vehicle	1

(* Ancillary uses, such as quarters for watchmen and caretakers, ancillary store and mini café, are proposed by the applicant.)

1.4 The applicant has submitted relevant technical assessments in regard to traffic, environmental, sewerage, visual and landscape impacts to demonstrate that the proposed RCHE development would not pose significant adverse impact on the surrounding environment (**Appendices Ib**).

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

- (a) Application form with attachments received on (**Appendix I**) 17.4.2020
- (b) FI received on 28.5.2020 with clarification on (**Appendix Ia**) background information in response to public comments
[exempted from publication and recounting requirements]
- (c) FI received on 27.1.2021 enclosing a consolidated (**Appendix Ib**) planning statement with technical assessments
[exempted from publication and recounting requirements]
[Planning statement received on 17.4.2020 and FIs

received on 27.5.2020, 19.6.2020, 21.8.2020, 19.10.2020, 22.12.2020 and 26.1.2021 were superseded and not attached]

- 1.6 On 9.10.2020 and 18.12.2020, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for 2 months each respectively, as requested by the applicant, to allow time for submission of FI to address departmental comments. The applicant submitted FI as indicated in paragraph 1.5 above. The application is 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 the supplementary planning statement at **Appendix Ib**. They are summarised as follows:

- (a) The proposed development would phase out the non-conforming existing use currently occupying the Site. The existing bakery workshop is neither a Column 1 nor Column 2 use and its operation may not be desirable within the existing land use context. The surroundings of the Site are predominantly residential and community nature. The proposed 6-storey RCHE which is domestic in nature is considered to be compatible with the surrounding residential uses in the nearby “V” and residential zones with residential buildings with BH ranging from 3 storeys to 25 storeys. The proposed development would enhance the surrounding environment by building setback and ample landscape provision.
- (b) The provision of RCHE facilities in Hong Kong relies on the private sector, which provides about 65% of RCHE places in Hong Kong. The elderly in Hong Kong relies primarily on private provision of RCHE places. The Government is subsidising about 70% of the private RCHE places by 2002. According to the information on Social Welfare Department (SWD)’s website, private sector continued to provide 69% (i.e. 52,482 places) of RCHE places in Hong Kong by end 2019 whereas non-government organisations only provide 31% (i.e. 23,322 places). Under the Scheme to Encourage Provision of RCHE Premises in New Private Developments, private sector is encouraged to provide quality RCHE in the local context, and the applicant is required to work closely with relevant Government departments to ensure full compliance of the performance standards. The applicant is committed to build and provide a quality RCHE to the satisfaction of the SWD and to line up with an experienced RCHE operator to adopt high quality service.
- (c) The prevailing limited supply is far insufficient to meet the pressing demand of RCHE places. The proposed RCHE could help address the shortfall for elderly facilities and meet the demand of aging population in the community.
- (d) There is sufficient land to meet the small house demand in the subject “V” zone. In addition, the Site is solely owned by the applicant and is not subject to any small house application.

- (e) The proposed development would not incur adverse impacts to its surroundings on traffic, visual, landscape, drainage and sewerage aspects.

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. For the GL portion, the requirements under TPB PG-No. 31A are not applicable.

4. Previous Application

The Site is not the subject of any previous application.

5. Similar Application

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

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

6.1 The Site is:

- (a) currently used for the Hang Heung Bakery Workshop; and
- (b) accessible via Shap Pat Heung Road and Tai Tong Road.

6.2 The surrounding areas have the following characteristics:

- (a) generally residential use in nature intermixed with shop and services uses, vehicle parks, workshops, factory, open storage yards and government, institution and community (GIC) facilities;
- (b) to its immediate east is Tai Tong Road and to its further east are some structures used for shop and services;
- (c) to its immediately south is Shap Pat Heung Road and to its further south are intermixed with sitting-out area, a factory, the proposed Po Leung Kuk Youth Hostel which is under construction and a proposed RCHE²;
- (d) to its immediate west are intermixed with parking of vehicles and residential structures and to its further west is currently occupied by a temporary vehicle repair workshop³; and

² The proposed RCHE, under application No. A/YL/261, was approved by the Committee on 15.9.2020 for minor relaxation of building height restriction.

³ The site of the vehicular repair workshop is under planning application No. A/YL/265 which was approved by the Committee on 22.1.2021 for proposed temporary shop and services.

- (e) to its immediate north are some residential structures, and to its further north are a petrol filling station and a graded building, also known as ‘Siu Lo’⁴.

7. Planning Intention

The planning intention of “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. 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 New Territories Exempted House (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 views on the application and/or the public comments received are summarised as follows:

Land Administration

- 8.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site falls within part of the Lot No. 1394 S.B. RP, 1695 S.D RP and 1741 RP in DD 120, which are Old Scheduled Agricultural Lots but the lease documents cannot be traced.
- (b) The Site is within “V” zone encircling the recognised village, Ma Tin Tsuen. Land within “V” zone encircling a recognised village is primarily reserved for development of NTEH by indigenous villagers under the NT Small House Policy. Hence, non-NTEH land exchanges would not normally be entertained within defined village environs or “V” zones even planning permission is given by the Board.
- (c) In the event of implementation of the project, a land exchange would be required. Having regards to para. (b) above, there is no guarantee that the land exchange application would be processed by LandsD in the private capacity as landlord. LandsD would exercise its discretion in its private landlord’s right on whether land exchange application involving “V” zone would be entertained. Should

⁴ The site of ‘Siu Lo’ is under planning application No. A/YL/256 which was approved by the Committee on 20.3.2020 for proposed conservation of historic building and minor relaxation of building height restriction for permitted social welfare facility (RCHE).

planning application be approved by the TPB, the applicant should be reminded that there is no guarantee that the land exchange application will be processed even if the planning application is approved by the Board.

- (d) The total number of outstanding Small House applications and 10-year Small House demand forecast for Ma Tin Tsuen are 27 (as at 28.1.2021) and 80 respectively.

Traffic

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

- (a) The land status of the access road/path/track leading to the Site from Shap Pat Heung Road should be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track should be clarified with the relevant management and maintenance authorities accordingly.
- (c) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

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

- (a) The access arrangement from Shap Pat Heung Road should be commented by the Transport Department (TD).
- (b) HyD is not and shall not be responsible for the maintenance of any access connecting the Site and Shap Pat Heung Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.
- (d) His detailed comments are at **Appendix III**.

Environment

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

He has no objection to the application subject to the requirements of noise impact assessment (NIA) submission and implementation of noise mitigation measures under planning approval condition. He has no further comments on the air impact assessment and the preliminary sewerage impact analysis.

Visual and Landscape

8.1.5 Comments of the Chief Architect/Central Management Division 2, Architectural Services Department (CA/CMD2, ArchSD):

- (a) Based on the information provided, it is noted that the proposed development consists of one 6-storey building which may not be incompatible with adjacent developments (Sereno Verde) with 25 storeys. In this regard, he has no comment from visual impact point of view.
- (b) It is noted that some façade area are facing west. Solar control devices should be considered to reduce solar heat gain and avoid glare affecting adjacent buildings as far as practicable.

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

Urban Design

- (a) The Site is currently occupied by part of a single-storey temporary bakery workshop with Tai Tong Road along its eastern boundary and Shap Pat Heung Road along its western boundary. There are some 1 to 2-storey temporary structures to the north of the Site. To the further north of the Site is a 5 to 8-storey (27.5mPD) planned conservation of historic building and RCHE with planning approval, and a 8-storey (37.9mPD) planned school and church development with planning approval. To the west of the Site across Shap Pat Heung Road is a planned “Open Space” currently occupied by temporary structures. To the further north, northeast and west are some 1 to 3-storey village houses. There is a piece of vacant land to the southeast of the Site across the junction of Shap Pat Heung Road/Tai Tong Road, with some residential buildings mainly of 13 to 14-storey (around 47.9 to 50.4mPD) to the further southeast. There is a 26-storey (91.6mPD) planned youth hostel to the further southwest of the Site.
- (b) According to the submitted information, the applicant has endeavoured to reduce the visual change including provision of stepped height profile, a green roof and a healing garden for edge treatment.
- (c) The applicant should ensure that the proposed roof-top facilities should comply with the requirements under Joint Practice Note (JPN) No. 5 – Development Control Parameters – Building Height Restriction in counting the number of storeys and building height.

Landscape

- (d) He has no objection to the application from the landscape planning perspective.
- (e) With reference to the aerial photo of 2019, the Site is situated in an area of miscellaneous rural fringe landscape character dominated by shop and services, workshops, open car parks and village houses. The proposed development is considered not incompatible to the landscape character of the surrounding environment. The Site is mostly occupied by temporary structures and no vegetation is observed within the area. According to the planning statement (**Appendix Ib**) and landscape proposal, landscape treatments including a healing garden at south-eastern portion of the Site, peripheral tree and shrub planting facing public frontage and along the northern boundary are proposed on G/F. Communal flat roof/sitting out area with amenity planting is also proposed on 1/F, 3/F, 4/F, 5/F and roof floor (**Drawings A-2 to A-6**). Significant landscape impact arising from the proposed development is not envisaged.

Social Welfare

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

- (a) He supports the application from social welfare perspective.
- (b) In view of the pressing demand for residential care service for the elderly over the territory, he has no adverse comments on the applicant's proposal for the construction of purpose-built RCHE from the social welfare service point of view subject to the conditions that the operator should ensure that the design and construction of the RCHE shall comply with all relevant and prevailing statutory and licensing requirements, and the use of the subject location/ premises for the operation of the RCHE shall be in compliance with the relevant planning and land lease conditions.
- (c) Against the backdrop of an aging population, the Government encourages provision of quality RCHE premises in new private developments through the "Incentive Scheme to Encourage Provision of Residential Care Home for the Elderly Premises in New Private Developments" (the Scheme), SWD has rendered an in-principle support to the applicant to set up a purpose-built RCHE premises in its new private development under the Scheme.
- (d) The applicant is to be reminded that, for a RCHE licence to be issued, the intended RCHE has to comply with the licensing requirements as stipulated in the Residential Care Homes (Elderly Persons) Ordinance, Cap. 459, its subsidiary legislation and the Code of Practice for Residential Care Homes (Elderly Persons)(CoP).

- (e) His advisory comments are at **Appendix III**.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) His detailed comments are at **Appendix III**.

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions on the submission and implementation of a drainage proposal and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or the Board should be included.

Building Matters

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

- (a) The proposed RCHE for the elderly is subject to the issue of licence/registration, the applicant is reminded that any proposed 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.
- (b) His detailed comments are at **Appendix III**.

Others

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

He has no objection to the application subject to the detailed comments at **Appendix III**.

8.1.12 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) He has no specific view on the application.

- (b) His detailed comments are at **Appendix III**.

8.1.13 Comments of Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) He has no in-principle geotechnical objection to the planning application.
- (b) The applicant is reminded of his comments detailed at **Appendix III**.

8.1.14 Comments of the Executive Secretary (Antiquities and Monument), Antiquities and Monuments Office (“AMO”):

- (a) Although there is no graded historic building or new item pending for grading assessment situated within the Site, there is, however, a Grade 3 historic building, namely Siu Lo, situated only 100 m away from the north of the Site.
- (b) The AMO would like to remind the applicant to ensure that Siu Lo will not be affected adversely, both physically and visually, by the redevelopment. Appropriate mitigation measures have to be proposed by the applicant for agreement by AMO before implementation if the redevelopment is approved by the Board.

District Officer’s Comments

8.1.15 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

He consulted the locals on the original submission and the subsequent FIs. The Chairman of Shap Pat Heung Rural Committee (SPHRC) supports the application as the proposed RCHE could enhance the local environment, provides more open space and greening and there is a demand for high quality RCHE facility due to the aging population in Hong Kong.

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

- (a) Project Manager (West) (PM(W)), CEDD;
- (b) Director of Electrical and Mechanical Services (DEMS); and
- (c) Commissioner of Police (C of P).

9. Public Comment Received During Statutory Publication Period

- 9.1 On 24.4.2020, the application was published for public inspection. The subsequent FIs submitted by the applicant were also published for public inspection. During the statutory public inspection periods, a total of 265 comments were received from

representatives of SPHRC and Shap Pat Heung District Resident Association, Yuen Long Ma Tin Tsuen Village Representatives (VRs), representatives of Ha Tsuen Rural Committee and Yuen Long Tai Tong District Residents' Association and individuals. All the public comments received are deposited at the Board's Secretariat for Members' reference.

- 9.2 Among the 265 public comments, 257 supporting comments (samples of comments are extracted in **Appendices II-1 to II-5**) were submitted by representatives of rural committees and VRs as mentioned in para. 9.1 above, 6 objecting comments were submitted by the same individual together with Hang Heung Hop Kee Investment Limited (sample of comments is extracted in **Appendix II-6**) and 2 expressing views on the application were submitted by an individual and a representative of the Hang Heung Bakery Workshop (**Appendices II-7 to II-8**).
- 9.3 The major views of the public comments are summarised as follows:
- (a) The supporting comments are that the proposed RCHE could enhance the local environment by providing more open space, greening, widening road and footpath. The proposed development is in vicinity to other community facilities including kindergartens, churches and the youth hostel which is currently under construction. The proposed RCHE could add synergy and diversity to the local community. In addition, the provision of RCHE places is inadequate in the community. The provision of high quality RCHE is welcomed.
 - (b) The objecting comments were mainly on the grounds that the land dispute of the lots is subject to legal proceeding, the planning application should not be approved to avoid further legal proceeding. As the Site is located at the junction of Tai Tong Road and Shap Pat Heung Road, noise and air pollution are anticipated and therefore it is not suitable for the development of RCHE. The Site has been used as Hang Heung Bakery Workshop for many years and the use should not be altered.
 - (c) One commenter questioned the background of the applicant (i.e. track record of the company in the field) and the eventual use of the proposed premises, whereas the other commenter raised concern regarding the land ownership of the Site.

10. **Planning Considerations and Assessments**

- 10.1 The application is for proposed RCHE development within "V" zone. The planning intention of "V" zone is primarily for development of Small Houses by indigenous villagers. Although the proposed development is not entirely in line with the planning intention of the "V" zone, there is sufficient land in the concerned "V" zone in Ma Tin Tsuen to meet the Small House demand⁵. The proposed RCHE will

⁵ According to DLO/YL, LandsD's record, the total number of outstanding Small House applications and 10-year Small House demand forecast for Ma Tin Tsuen are 27 and 80 respectively. Based on the latest estimate by PlanD, about 4.4 ha (equivalent to 176 Small House sites) of land is available within the three "V" zones encircling the recognised village 'Ma Tin Tsuen'. The land available can meet the outstanding and 10-year demand of Small Houses for Ma Tin Tsuen.

provide about 320-380 beds. Based on the Hong Kong Planning Standards and Guidelines, there is a deficit of about 357 subsidised beds for RCHE in the Yuen Long Town within the OZP area. The proposed RCHE could nevertheless help address the shortfall for elderly facilities and meet the demand of ageing population in the community. DSW also supports the application from social welfare perspective.

- 10.2 The proposed RCHE development with a low-rise (6 storeys) and low-density (PR of about 1.6) character is not incompatible with the land use setting in the surrounding area which includes GIC facilities, approved RCHE development, village houses, residential use under “Residential (Group B)” zone and workshops. CA/CMD2, ArchSD and CTP/UD&L, PlanD have no adverse comment on the application from visual impact point of view.
- 10.3 The applicant has submitted relevant technical assessments to demonstrate that the proposed RCHE development would not generate significant adverse impacts to the surrounding areas. Concerned Government departments consulted, including C for T, DEP, CE/MN, DSD and CTP/UD&L, PlanD have no objection to or adverse comment on the application. Significant adverse traffic, environmental, drainage, sewerage and landscape impacts on the surrounding areas are not envisaged. Moreover, should the application be approved, the applicant will be reminded that the proposed RCHE should follow the requirements as required by the licensing authority. The technical concerns of DEP, CE/MN, DSD and D of FS could be addressed by approval conditions recommended in paragraph 11.2.
- 10.4 There are 265 public comments received during the statutory publication with 257 supporting, 6 objecting and 2 expressing views as mentioned in paragraph 9 above. In this regard, the SPHRC and VRs of Ma Tin Tsuen support the application and consider that the proposed RCHE development can meet such demand in the district. Planning considerations and assessments in paragraphs 10.1 to 10.3 above are also relevant. Regarding the land dispute issue of the Site, it should be dealt with separately.

11. Planning Department’s Views

- 11.1 Based on the assessment made in paragraph 10 and having taken into account the public comments in paragraphs 8.1.15 and 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 5.2.2025, 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 conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the submission of a Noise Impact Assessment and the implementation of noise mitigation measures identified therein to the satisfaction of the

Director of Environmental Protection or of the Town Planning Board;

- (b) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (c) the provision of fire service installations and water supplies for fire-fighting to the satisfaction of the Director of Fire Services or of the Town Planning Board.

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' consideration:

the proposed development is not in line with the planning intention of the "V" zone, which is primarily for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission to justify 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 conditions and advisory clauses, 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 attachments received on 17.4.2020
Appendix Ia	FI received on 28.5.2020 with clarification on background information in response to public comments
Appendix Ib	FI received on 27.1.2021 enclosing a consolidated planning statement with technical assessments
Appendices II-1 to 8	Public comments
Appendix III	Recommended advisory clauses
Drawing A-1	Site Plan

Drawings A-2 to A-6	Schematic Floor Plans
Drawing A-7	Section Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2021**