

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/I-TCV/7

- Applicant** : Wisdom Management Company Limited
- Site** : Lot 1880 in D.D.1 TC, Tung Chung Valley, Lantau Island
- Site Area** : About 986.4 m²
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tung Chung Valley Outline Zoning Plan (OZP) No. S/I-TCV/2
- Zoning** : “Residential (Group C) 2”
[maximum plot ratio of 1 and maximum building height of 25mPD]
- Application** : Proposed Temporary Open Storage of Construction Materials for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary open storage of construction materials for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “Residential (Group C) 2” (“R(C)2”) on the approved Tung Chung Valley Outline Zoning Plan No. S/I-TCV/2 (the OZP). According to the Notes of the OZP, the proposed temporary open storage use of the Site requires permission from the Town Planning Board (the Board).
- 1.2 The Site of about 986.4m² will be used for open storage of construction materials. No structure will be erected and no parking space or loading/unloading space will be provided within the Site. The applicant proposes to use the local track to the east for access to the Site (**Drawing A-1**). According to the applicant, the operation hours will be from 8:00 a.m. to 10:00 p.m. on Mondays to Saturdays. Plan showing the site location submitted by the applicant is at **Drawing A-1**.

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

- (a) Application form received on 18.12.2017 **(Appendix I)**
- (b) Replacement Page for the application form received **(Appendix Ia)**
on 19.12.2017

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed at **Appendix I** and summarised as follows:

- (a) Although the Site is demised for agricultural use on the lease, it has been abandoned for decades due to change of environment and lifestyle. The Site is also paved with asphalt and stone debris and is not covered by any vegetation.
- (b) There are sites in the vicinity used for logistic operations and storage of goods and construction materials. The proposed open storage use would better utilize land resources and meet the need of Tung Chung development.
- (c) The operation hours of the Site are between 8:00 a.m. and 10:00 p.m., Mondays to Saturdays. A maximum of one trip of goods vehicle (5.5 tonnes) will be generated every two hours.

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

The applicant is not the “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31) by obtaining consent from the land owners. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

- 4.1 The Site is currently subject to two active enforcement actions both against unauthorized storage use (including deposit of containers) for the eastern and northern parts of the site (**Plan A-2**).
- 4.2 Enforcement Notices were issued to the concerned parties on 23.3.2017 and 21.12.2017 respectively requiring discontinuance of the unauthorized development (UD). The compliance period of the Notice for the eastern part of the site expired on 23.6.2017. PlanD’s latest site inspection revealed that this part of the Site is largely vacant. Further site inspection(s) is required to ascertain whether the UD is genuinely discontinued. For the northern part of the Site, if the requirement of the Notice was not complied with upon the expiry of the Notice on 21.3.2018, prosecution action would be taken against the notice recipients.

5. Previous Application

There is no previous application at the Site.

6. Similar Application

There are six applications for warehouse/ open storage of construction materials in Tung Chung Valley area. Five applications (No. A/I-TCV/1 to 5) falling within “Other Specified Uses” annotated “River Park” (“OU (River Park)”) zone, “R(C)2” zone and/ or ‘Road’ area were rejected by the Rural and New Town Planning Committee (RNTPC) on 22.12.2017 and 26.1.2018 respectively on the grounds that the development will frustrate/ is not in line with the planning intention(s), causing adverse ecological, landscape and/ or visual impacts and setting an undesirable precedent. Another application (No. A/I-TCV/6) falling within “Village Type Development” (“V”) zone will be considered by the RNTPC in this same meeting (**Plan A-1**).

7. The Site and Its Surrounding Areas (Plans A-1 to A-5)

7.1 The Site is:

- (a) accessible from Tung Chung Road via an informal local track to its east (**Plan A-2**); and
- (b) formed and vacant with the western part covered by some vegetation.

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

- (a) the Site is located within a rural area with a mixture of uses including cultivated/ fallow agricultural land, an open storage, deposition of concrete blocks and gravel, a columbarium and some residential dwellings;
- (b) to its north, northwest, east and south are mainly cultivated/ fallow agricultural land and vacant land. Tung Chung Ecologically Important Stream (EIS) zoned “Conservation Area” (“CA”) is located to its further east (about 50m);
- (c) the proposed Road L26 will be located to its immediate south. Two areas zoned “Other Specified Uses” annotated “Stormwater Attenuation and Treatment Ponds” located to its south across the proposed Road L26 and “Other Specified Uses” annotated “Polder” located to its east will form part of the sustainable drainage and flood prevention system in the area;
- (d) Lam Che Village (about 70m) and a columbarium in Nim Yuen are located to its further west and south respectively; and

- (e) an open storage of construction materials which is a suspected UD is found to its north. To its further east are sites for deposition of concrete blocks and gravel which are suspected UD/existing use.

8. Planning Intention

- 8.1 The general planning intention of Tung Chung Valley area is to conserve the ecologically sensitive areas, to protect the rural and natural character, to maintain the unique landscape character and cultural heritage of the area.
- 8.2 The planning intention of “R(C)2” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

9. Comments from Relevant Government Departments

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

Road Programme

- 9.1.1 Comments of the Head of the Sustainable Lantau Office, Civil Engineering and Development Department (Head(SLO), CEDD):

he does not support the application. The location of the proposed open storage partly falls within the works area (about 10%) of a proposed road under Agreement No. CE 70/2015 (CE) Tung Chung New Town Extension (West) – Design and Construction. The construction work will commence in Q1 2021 and prior clearance of the area will be required. The proposed development will affect the land resumption for the construction of the proposed road.

Land Administration

- 9.1.2 Comments of the District Lands Officer/Islands, Lands Department (DLO/Is, LandsD):
- (a) from the land acquisition point of view, if the construction work by CEDD will commence in Q1 2021, the application is not supported;
 - (b) the Site is an Old Scheduled Agricultural Lot held under Block Government Lease. No structure shall be erected on the Site without prior approval. As long as no structure to be erected, the proposed use would not be in breach of the lease conditions from land use point of view;
 - (c) no Short Term Tenancy (STT)/ Short Term Waiver (STW) concerning the Site is currently under processing;

- (d) no complaint concerning the Site has been received by his office. Nevertheless, the Government reserves all rights in the matter of lease enforcement if a breach is detected; and
- (e) should planning approval be given to the subject planning application, the applicant should be advised that the Site might be subject to land resumption at any time before the expiry of the planning permission.

Traffic

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

- (a) the access to the Site involves existing village accesses which are currently not managed by Transport Department; and
- (b) should the Board approve this application, no vehicle from the Site is allowed to queue back to or reverse onto/ from public road at any time during planning approval period.

Environment

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

- (a) there was no substantiated environmental complaint received pertaining to the Site; and
- (b) should the Board approve this application, the applicant is advised to implement appropriate environmental measures recommended in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize environmental nuisances.

Urban Design and Visual

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

the Site is currently vacant and is accessible by a track. It is located near Tung Chung Stream, an EIS zoned “CA” with dense vegetation cover on both sides. There is however no information in the submission on how the proposal will not cause conflict with the EIS and surrounding environment in urban design perspective and its potential visual impact on the surrounding has not been ascertained.

Landscape

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

- (a) she has some reservations on the application from a landscape planning perspective;
- (b) the Site is located on a flat land. The existing wider surrounding area of the Site is densely vegetated with landscape resources of existing trees/ shrubs and of rural and natural landscape character. There is an existing access connected to the Site;
- (c) as observed from the aerial photo, there was dense vegetation within the Site in 2015. The vegetation cover within the Site however has been removed and turned into hard paved with existing use of open storage. Other sites in its immediate vicinity (to its west, east and north sides) of a comparable and up to a double of the size of the Site are also observed with vegetation clearance. Noticeable disturbance in extensive scale and large magnitude to the existing landscape resources had been caused prior to the application. The adverse impacts on the existing landscape resources and natural landscape character have already been taken effect;
- (d) the proposed land use is not compatible with the planned land use of “R(C)2” zone. Approval of the application may encourage applicants to clear and develop the sites prior to planning permission is obtained and create a ripple effect for other similar applications within the zone, which will result in the overall gradual modification and degradation of the natural landscape character of the Site;
- (e) given most of the existing vegetation within the Site was cleared and the Site was hard paved and some existing vegetation is maintained along the boundary of the Site, the vegetation survey within and in vicinity of the Site are not provided. Any large, important trees or plant species of conservation interests are not identified. The significance of potential impacts on the existing trees/ vegetation cannot be fully ascertained;
- (f) the proposed open storage of construction materials will generate vehicular traffic along an existing (informal) access leading from Tung Chung Road which passes through a large part of the rural area. Information regarding the existing access proposed to be used by the applicant is not adequate. Only a small extent of the access is illustrated. The potential adverse impacts to the existing natural landscape resources including trees/ shrubs cannot be ascertained;

- (g) no information regarding any other temporary access which may be formed/ operated during the proposed use as open storage that will be in conflict with existing vegetation/ trees outside the Site is given. The overall impacts to the landscape resources/ existing trees/ vegetation cannot be fully assessed; and
- (h) considered the proposed land use of temporary open storage is not compatible with the surroundings, should the Board approve this application, conditions on submission and implementation of a landscape proposal to the satisfaction of the Director of Planning or of the Board are recommended.

Nature Conservation

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

he has no strong view on the application. It is noted that the Site is basically paved. A few common trees are found in the western part of the Site.

Drainage

9.1.8 Comments of the Chief Engineer/Hong Kong & Islands, Drainage Services Department (CE/HK&Is, DSD):

- (a) the site is within an area where neither stormwater nor sewerage connection maintained by DSD is available in the vicinity at present;
- (b) should the Board approve this application, conditions on submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Board and maintenance of the implemented drainage facilities at all times during the planning approval period are recommended; and
- (c) the applicant should be advised that adequate drainage works should be provided such that no adverse drainage impact would be induced to the areas in the vicinity and stormwater generated would be prevented from entering rivers/ streams.

Building Matters

9.1.9 Comments of the Chief Building Surveyor/New Territories East 1 and Licensing, Buildings Department (CBS/NTE1&L, BD):

- (a) if there are existing structures which had been erected on leased land without approval of BD (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application;
- (b) for unauthorized building works (UBW) erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO;
- (c) as denoted in applicant's submission, no private development or building is entailed. In case there is/ are proposed development(s)/ building(s) associated with the planning application:
 - (i) before any new building works (including site formation works) are to be carried out on the Site, the prior approval and consent from the Building Authority should be obtained, otherwise they are UBW;
 - (ii) the permissible site coverage and plot ratio of the development(s)/ building(s) should comply with Regulations 20 and 21 of the Building (Planning) Regulations (B(P)R);
 - (iii) if the Site does not abut on a specified street, the intensity (i.e. site coverage, plot ratio and building height(s)) of the development(s)/ building(s) shall be determined by the Building Authority under B(P)R 19(3) upon formal submission of building plans to BD;
 - (iv) the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with B(P)R 5 and 41D respectively; and
 - (v) detailed comments under the BO on the private developments/ building(s) such as permissible plot ratio, site coverage, emergency vehicular access, private streets and/or access road, barrier free access and facilities, compliance with the sustainable

building design guidelines, etc. will be formulated at the formal building plan submission stage.

Fire Safety

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

- (a) he has no objection in principle to the proposed development subject to fire service installations (FSIs) being provided to his satisfaction;
- (b) in consideration of the design/ nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to Fire Services Department (FSD) for approval. In addition, the applicant should also be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy;
 - (ii) the location of where the proposed FSI to be installed should be clearly marked on the layout plans; and
 - (iii) the applicant shall adhere to the good practice guidelines for open storage at **Appendix III**;
- (c) having considered the nature of the open storage, an approval condition on the provision of fire extinguisher(s) within 6 weeks from the date of planning approval to his satisfaction shall be added. To address this additional approval condition, the applicant is advised to submit a valid fire certificate (FS 251) to FSD for approval; and
- (d) however, the applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Water Supply

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

- (a) he has no objection to the application;
- (b) existing water mains will be affected (**Plan A-2**). A waterworks reserve within 1.5m from the centerline of the water mains shall be provided to WSD. No structure shall be erected over the waterworks reserve and such area shall not be used for open storage purpose. No trees or shrubs with

penetrating roots may be planted within the waterworks reserve or in the vicinity of the water main;

- (c) the Water Authority and his officers and contractors, and their workman shall have free access at all times to the area with necessary plants and vehicles for the purpose of construction, inspection, operation, maintenance and repair works. All other services across, through or under the waterworks reserve are required to seek authorization from the Water Authority;
- (d) the developer shall bear the cost of any necessary diversion works affected by the proposed development;
- (e) Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of public water mains within and in close vicinity of the Site; and
- (f) water mains in the vicinity of the Site cannot provide the standard pedestal hydrant.

9.2 The following government departments have no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) District Officer (Islands), Home Affairs Department (DO(Is), HAD); and
- (c) Director of Electrical and Mechanical Services (DEMS).

10. Public Comments Received During Statutory Publication Period

On 29.12.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 19.1.2018, 44 public comments were received from a Legislative Council member, Green Power, Designing Hong Kong Limited, Save Lantau Alliance, a private company, Chairman of Tung Chung Rural Committee, local villagers and private individuals (**Appendix II**). Six of them object to the application mainly on the grounds of incompatibility with the existing environment, not in line with the planning intention of the area, adverse environmental, ecological, landscape and traffic impacts, air pollution and pollution to Tung Chung Stream, setting an undesirable precedent, encouraging similar UDs and the use of unauthorised road access. On the other hand, 38 commenters support the application mainly on the grounds that there is a lack of open storage/warehouse sites, the development can fulfil the need of the society, better utilize land resources, increase employment opportunities and complement with the development of Tung Chung and the airport.

11. Planning Considerations and Assessments

- 11.1 The general planning intention of Tung Chung Valley area is to conserve the ecologically sensitive areas, to protect the rural and natural character, to maintain the unique landscape character and cultural heritage of the area. The proposed development is not in line with the general planning intention of Tung Chung Valley. The Site falls within an area zoned “R(C)2” on the OZP. The planning intention of ‘R(C)2’ zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. The proposed development is not in line with the planning intention of the “R(C)2” zone for residential developments. There is no strong planning justification in the submission to support a departure from the planning intention, even on a temporary basis. Besides, the Site falls within the works area of the proposed road to the south (about 10%). The road construction work will commence in Q1 2021 and prior clearance of the area will be required. The proposed development will affect the land resumption for the construction of the proposed road. In this regard, both Head(SLO) of CEDD and DLO/Is of LandsD do not support the application.
- 11.2 The proposed temporary open storage use is not compatible with the surrounding areas which are predominantly rural in nature. Besides, Tung Chung EIS is located about 50m to the east of the Site (**Plan A-2**) within “CA” zone with dense vegetation cover on both sides. Although there are sites of deposition of concrete blocks and gravel and an open storage in the vicinity of the Site, they are either existing uses tolerated under the Town Planning Ordinance or are suspected UDs subject to enforcement action by the Planning Authority. While DAFC has no strong view on the application as the Site is basically paved and only a few common trees are found in the western part of the Site, CTP/UD&L, PlanD has reservation on the application. The proposed open storage of construction materials will generate vehicular traffic along an existing (informal) access leading from Tung Chung Road which passes through a large part of the rural area. There are no vegetation survey and no information on how the proposed development will not cause conflict with the existing trees/ vegetation, natural stream and the surrounding environment. Hence, the overall impacts on the existing trees/ vegetation and natural stream and visual impact to the surroundings cannot be ascertained. In view of the above, the applicant fails to demonstrate that the development would not cause adverse landscape and visual impacts on the surrounding areas.
- 11.3 There are already seven applications, including the subject application, for temporary open storage/ warehouse of construction materials in Tung Chung Valley area. Five applications (No. A/I-TCV/1 to A/I-TCV/5) were rejected by the RNTPC on 22.12.2017 and 26.1.2018 respectively. Another application (No. A/I-TCV/6) will be considered by the RNTPC in this same meeting. Approval of the application, even on a temporary basis, would set an undesirable precedent and encourage other applications for similar open storage/ warehouse uses. The cumulative effect of approving such applications would result in a general degradation of the rural environment and landscape

character of the area.

- 11.4 44 public comments were received in which six of them objecting to the application mainly on land use incompatibility, adverse environmental, ecological, landscape and traffic impacts and undesirable precedent and the remaining 38 of them supporting the application mainly on grounds of better utilization of land resources and meeting the need of the society as stated in paragraph 10. The above planning assessments and considerations are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and taking into account the public comments in paragraph 10, the Planning Department does not support the application for the following reasons:

- (a) the proposed development is not in line with the planning intention of "R(C)2" zone. There is no strong planning justification in the submission to support a departure from the planning intention, even on a temporary basis;
- (b) the applicant fails to demonstrate that the proposed development will not have adverse landscape and visual impacts on the surrounding areas; and
- (c) the approval of the application, even on a temporary basis, would set an undesirable precedent and encourage other applications for similar developments in the surrounding area. The cumulative effect of approving such applications would result in a general degradation of the rural environment and landscape character of the area.

- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 9.2.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 10:00 p.m. and 8:00 a.m. on Mondays to Saturdays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) a clearance of at least 1.5m from the centreline of the existing water mains at the Site should be provided and maintained at all the times during the planning approval period;

- (e) the submission of a drainage proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **9.8.2018**;
- (f) in relation to (e) above, the implementation of the drainage proposal within **9 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **9.11.2018**;
- (g) in relation to (f) above, the maintenance of the implemented drainage facilities at all times during the planning approval period;
- (h) the submission of a landscape proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **9.8.2018**;
- (i) in relation to (h) above, the implementation of the landscape proposal within **9 months** from the date of approval to the satisfaction of the Director of Planning or of the Town Planning Board by **9.11.2018**;
- (j) the provision of fire extinguisher(s) and the submission of a valid fire certificate (FS251) within **6 weeks** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **23.3.2018**;
- (k) the submission of a fire service installations proposal within **6 months** from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **9.8.2018**;
- (l) in relation to (k) above, the implementation of the fire service installations proposal within **9 months** from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **9.11.2018**;
- (m) if any of the above planning conditions (a), (b), (c), (d) or (g) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (n) if any of the above planning conditions (e), (f), (h), (i), (j), (k) or (l) is not complied with by the above specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (o) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

12.3 The recommended advisory clauses are attached at **Appendix IV**.

13. Decision Sought

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

13.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses to be attached to the permission, and the date when the validity of the permission should expire.

13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form received on 18.12.2017
Appendix Ia	Replacement Page for the application form received on 19.12.2017
Appendix II	Public Comments
Appendix III	Good Practice Guidelines for Open Storage Sites
Appendix IV	Advisory Clauses
Drawing A-1	Plan showing the Site location
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4 and A-5	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2018**