

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/I-TCV/8

- Applicant** : Uni-Creation Investments Limited represented by M&D Planning and Surveyors Consultant Limited
- Site** : Lot 2761 (Part) in D.D.1 TC, Tung Chung Valley, Lantau Island
- Site Area** : About 6.66 m²
- Land Status** : Block Government Lease
- Plan** : Approved Tung Chung Valley Outline Zoning Plan (OZP) No. S/I-TCV/2
- Zoning** : “Green Belt”
- Application** : Proposed Temporary Utility Installation for Private Project (Meter Room) for a Period of 5 Years and Excavation of Land

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary utility installation for private project (meter room) for a period of 5 years and excavation of land (**Plan A-1**). The Site falls within an area zoned “Green Belt” (“GB”) on the approved Tung Chung Valley (TCV) Outline Zoning Plan No. S/I-TCV/2 (the OZP). According to the Notes of the OZP, the proposed temporary utility installation for private project and excavation of land at the Site require permission from the Town Planning Board (the Board).
- 1.2 The Site of about 6.66m² comprises an area of 3.06m² for a proposed meter room of 3m high (with 2.25 m² excavation of land of about 1m in depth) and 3.6m² vacant land for the proposed excavation of land for cable trench. Plans showing the site location and the dimension of the meter room and excavation of land submitted by the applicant are at **Drawings A-1 and A-2**.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 4.4.2019 (Appendix I)
- (b) Replacement Page for the application form and layout (Appendix Ia)

- plans received on 12.4.2019
- (c) Replacement Page for the justification received on 15.4.2019 (**Appendix Ib**)
 - (d) Further Information received on 10.5.2019 to clarify the application site area/boundary and justifications of the application (*accepted and exempted from publication and recounting requirements*) (**Appendix Ic**)

2. **Justifications from the Applicant**

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

- (a) the purpose of the application is to enhance electricity supply to the existing eight village houses approved by the Lands Department (LandsD) in 2014 (**Plan A-2**). The proposed meter room and cable trench are required to distribute electricity from the meter room to the eight village houses;
- (b) for safety reason, a buffer distance of 2800mm is required between the meter room and the village houses. The current application site is considered by the electricity supply company as a suitable site for the provision of a meter room as there is no space in the vicinity of the village houses;
- (c) the current electricity provision is only an interim measure. As there may be a need for alteration work for the meter room depending on future electricity supply arrangement, a temporary use of 5 years is pursued under the current application;
- (d) there would be no industrial sewerage discharge involved in the application and hence no adverse drainage and sewerage impact;
- (e) the proposed use does not require loading/unloading facilities. Hence, there would be no adverse traffic and transport impact; and
- (f) there is no historic building or structures with special architectural character. As such, there would be no adverse conservation impact.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Town Planning Board Guidelines**

Town Planning Board Guidelines for Application for Development within “Green Belt” Zone (TPB PG-No.10) are relevant to this application and relevant assessment criteria are attached at **Appendix II**.

5. **Background**

The Site is paved and currently not subject to any active enforcement action. However, the existing meter room found on the Site was built in 2016 which is not an 'Existing Use'. The meter room and excavation of land would be subject to planning enforcement action.

6. **Previous Application**

There is no previous application at the Site.

7. **Similar Application**

There is no similar application for 'Utility Installation for Private Project' within the same "GB" zone in the vicinity of the Site.

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

8.1 The Site is:

- (a) partly an existing meter room and partly vacant;
- (b) located on a paved platform which falls within the Village Environs ("VE") of Nim Yuen village (**Plan A-2**); and
- (c) without vehicular access and only accessible by a footpath with an entrance gate at Lot 1917 (**Plans A-2 and A-4**).

8.2 The surrounding areas have the following characteristics (**Plans A-1 and A-2**):

- (a) the Site is located within a rural area at the western part of the Tung Chung Valley (TCV) area;
- (b) to its immediate west are eight village houses on Lots 2754, 2755, 2756, 2757, 2758, 2760 and 2761 within the "Village Type Development" ("V") zone approved by LandsD in 2014. Columbarium use within the seven 3-storey and one 2-storey structures on these Lots were in existence immediately before the first publication in the Gazette of the notice of the draft TCV development permission area plan (i.e. 21.8.2015) and can be regarded as 'Existing Use' under the Town Planning Ordinance (**Plan A-2**). An application for licence for the columbarium use at the eight structures has been submitted to the Private Columbaria Licensing Board under the Private Columbaria Ordinance (Cap. 630) and the application is being processed by the Private Columbaria Affairs Office (PCAO);
- (c) to its northeast, east, south and southwest are densely vegetated areas zoned "GB" (**Plan A-3**); and

(d) Lam Che Village is located to the further north (**Plan A-3**).

9. Planning Intention

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

10. Comments from Relevant Government Departments

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

Land Administration

- 10.1.1 Comments of the District Lands Officer/Islands, Lands Department (DLO/Is, LandsD):
- (a) the meter room under the application is already in existence within Lot 2761 (the Lot) in D.D. 1 Tung Chung;
 - (b) the Lot is an Old Scheduled Lot held under the Block Government Lease. It consists of 0.05 acre courtyard and 0.03 acre house land. An approval letter permitting the construction of two houses (each of a maximum roofed-over area of 60.4m²) on the Lot was issued by this office on 30.4.2014. At the present stage, the owner of the Lot is taking follow up actions on some outstanding issues before this office could further process the application for issuance of “No Objection to Occupy Letter” in respect of the two houses constructed on the Lot;
 - (c) currently, there is no Short Term Tenancy (STT) or Short Term Waiver (STW) application in connection with the Lot under processing and there is no approved STT or STW in connection with the Lot. If the planning application is approved and the applicant subsequently submits application for STW to cover the meter room, LandsD would process the application in the capacity of a landlord and the approval, if granted, will be subject to such terms and conditions including payment of fees as appropriate. There is no guarantee that such STW application would be approved;

- (d) this office has not received any complaint about the meter room. There is a provision in the approval letter mentioned in point (b) above that the owner of the Lot is permitted to construct an electricity box of dimensions 1.2m (width) x 1.6m (length) and projecting from each of the houses for a distance of not more than 0.38m. The applicant should well justify the necessity of having the meter room to the satisfaction of the Board;
- (e) if the planning application is not approved and the meter room is not demolished, appropriate lease enforcement action would be taken by LandsD in accordance with the established practice; and
- (f) the buildings erected on the Lot and six other nearby lots are included in a licence application submitted under the Private Columbaria Ordinance (Cap. 630). The meter room under the planning application is not shown or included in the relevant layout plans or management plan in the licence application submitted under the Private Columbaria Ordinance (Cap. 630).

Traffic

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

- (a) he has no in-principle objection to the application from traffic engineering point of view; and
- (b) the existing access roads in the vicinity of the Site are not managed by his Department.

Environment

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

given the small scale and nature of the proposed meter room, he does not have any comment on the application.

Electricity Safety

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

- (a) while the proposed meter room under the subject application is owned by private developer (not owned by electricity supplier) for housing electricity supplier's installations for the provision of power supply, he has no particular comment on the application from the perspective of electricity supply safety; and

- (b) however, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the mentioned 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 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.

Building Matters

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

- (a) he has no in-principle objection under the Buildings Ordinance to the proposed use in the application site;
- (b) presuming the Site is a leased land and the development is not a New Territories Exempted House (NTEH), the applicant’s attention is drawn to the following points:
 - (i) for any existing structures erected on leased land without approval of the Buildings Department (BD) (not being a NTEH), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the captioned application;
 - (ii) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the 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;
 - (iii) for UBW erected on lease land, enforcement action may be taken by the 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;

- (iv) if the proposed use under application is subject to the issue of a licence, please 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;
- (v) in connection point (ii) above, the site shall be provided with means of obtaining access thereto from a street and emergency vehicular access (EVA) in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)Rs) respectively;
- (vi) as 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; and
- (vii) 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 the suitability for the use related to the application.

Environmental Hygiene

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

- (a) the Private Columbaria Ordinance (the Ordinance), which regulates the operation of private columbaria through a licensing scheme, has been enforced since the gazette on 30.6.2017. According the Ordinance, only private columbaria that have obtained a licence may sell or newly let out niches. Any private columbarium which applies for a licence must comply with the Town Planning Ordinance (Cap. 131) and other requirements prescribed in the Ordinance or specified by the Private Columbaria Licensing Board (the Licensing Board), including land-related, building-related, right to use the columbarium premises, deed of mutual covenant (if applicable), fire safety, etc. A licence applicant is also required to submit a management plan to the Licensing Board for approval. The management plan should show that suitable measures on traffic and public transport arrangement or management would be taken to minimise any adverse impact on the neighbourhood arising from the operation of the columbarium. In determining whether to approve an application for a licence, the Licensing Board must have regard to the public interest and may have regard to any other relevant considerations; and

- (b) a private columbarium called 東涌念園 has submitted an application for licence at Block A-H, 1 Nim Yuen Village, Tung Chung, Lantau Island, Islands (D.D.1, Tung Chung, Lot Nos. 2754, 2755, 2756, 2757, 2758, 2760 & 2761) to the Licensing Board and the application is being processed by the PCAO. Nevertheless, the proposed utility (meter room) was not indicated in the submitted proposed plans.

Urban Design and Visual

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

the application site is surrounded by vegetated areas to the north, east and south. To the west are some low-rise village developments. Given the small size and scale of the proposed development, significant adverse visual impact is not anticipated.

Landscape

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

- (a) the Site is rural in landscape character, located in the fully vegetated areas in the “GB” zone. Some low-rise houses in the “V” zone at Nim Yuen are located immediately to the west of the Site. According to LandsD’s aerial photos before 2018, vegetation/existing trees appear to be found within and adjacent to the site boundary. However, based on site photos taken in 2019, the proposed meter room has already been constructed at the Site. There has been removal of existing vegetation/existing trees within the Site and its adjoining area within the “GB” zone. Adverse landscape impact has already been taken effect; and
- (b) she objects to the application from landscape planning perspective on the following grounds:
- (i) approval of the application will encourage similar vegetation removal prior to obtaining planning permission, causing adverse impact on the landscape character within the area; and
- (ii) approval of the application will set an undesirable precedent to encourage similar applications to extend the development into the adjacent “GB” zone, resulting in gradual degradation and irreversible change to the green belt.

- 10.1.9 Comments of the Director of Leisure and Cultural Services (DLCS):

given that no roadside tree maintained by LCSD will be affected, he has no specific comment on the application.

Nature Conservation

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

a meter room has already been installed in a paved area at the application. He has no particular comment on the application from nature conservation perspective.

Fire Safety

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

- (a) based on the submitted information, he has no specific comment on the application provided that fire service installations and water supplies for firefighting being provided to the satisfaction of this Department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans;
- (b) as no details of the emergency vehicular access (EVA) have been provided, comments could not be offered by Fire Services Department at the present stage. The applicant is advised to observe the requirements of EVA as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Building 2011 which is administered by the Building Authority; and
- (c) the following approval conditions are required:
 - (i) the submission of fire service installations and water supplies proposal for firefighting within 6 months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
 - (ii) in relation to (i) above, the implementation of the fire service installations and water supplies proposal for firefighting within 9 months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board.

Water Supply

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

he has no comment on the application. However, the applicant should note that the proposed works should not affect the existing fresh water distribution system.

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

- (a) Head of the Sustainable Lantau Office, Civil Engineering and Development Department (Head(SLO), CEDD);
- (b) Head of Geotechnical Engineering Office, CEDD (H(GEO), CEDD);
- (c) Chief Engineer/Hong Kong & Islands, Drainage Services Department (CE/HK&Is, DSD);
- (d) District Officer (Islands), Home Affairs Department (DO(Is), HAD);
and
- (e) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD).

11. Public Comments Received During Statutory Publication Period

On 23.4.2019, the application was published for public inspection. During the three weeks of the statutory public inspection period, which ended on 14.5.2019, 17 public comments were received from local village representatives (VRs) of Lam Che and Nim Yuen (with 22 villagers' signatures), VRs of Mok Ka Village (with 27 villagers' signatures), VR from Ngau Au Village (with 5 signatures), Ma Wan Chung Village (with 32 villagers' signatures), Kadoorie Farm & Botanic Garden Corporation, Hong Kong Bird Watching Society, WWF, Alliance for the Concern Over Columbarium Policy and private individuals (**Appendix III**). They object to the application mainly on the grounds that it is not in line with the planning intention of the "GB" zone; the use is related to the columbarium use and will create nuisance and adverse environmental impact; there is still space within the "V" zone to accommodate the meter room; the proposed development would cause vegetation clearance and result in degradation of the "GB" zone; and it will be an undesirable precedent if approved.

12. Planning Considerations and Assessments

12.1 The planning intention of "GB" zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. Although the proposed temporary utility installation and excavation of land is not totally in line with the planning intention of the "GB" zone, the proposed meter room is a utility installation serving the adjoining eight village houses.

12.2 The Site is located within a rural area at the fringe of the "GB" zone adjoining existing village houses within the "V" zone. The meter room with a GFA of about 3.06m² and building height of 3m is considered small in scale. CTP/UD&L considers that significant adverse visual impact is not anticipated. Whilst CTP/UD&L considers that approval of the application would encourage vegetation removal prior to obtaining planning permission, the Site

falls on a paved area. It is generally in line with TPB PG-No. 10 in that no extensive clearance of existing natural vegetation is involved. DAFC has no comment on the application from nature conservation perspective.

- 12.3 Other relevant departments including DEMS, DEP, H(SLO), CEDD, C for T, CE/HK&Is, DSD and CE/Construction, WSD have no comment/objection to the application.
- 12.4 Seventeen public comments were received (**Appendix III**) objecting to the application mainly on the grounds of incompatibility with the planning intention, adverse environmental impact and nuisance, vegetation clearance and degradation of “GB” zone, alternative space available in “V” zone. The planning considerations and assessment in the above paragraphs 12.1 to 12.3 are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and taking into account the public comments in paragraph 11, the Planning Department has no objection to the application.
- 13.2 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 5 years until **31.5.2024**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the submission of a fire service installations and water supplies proposal for firefighting within **6 months** from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **30.11.2019**;
- (b) in relation to (a) above, the implementation of the fire service installations and water supplies proposal for firefighting within **9 months** from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **29.2.2020**;
- (c) if any of the above planning conditions (a) or (b) 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
- (d) 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

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

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses to be attached to the permission, and the date when the validity of the permission should expire.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

| | |
|--------------------------|--|
| Appendix I | Application form received on 4.4.2019 |
| Appendix Ia | Supplementary Information for replacement page received on 12.4.2019 |
| Appendix Ib | Supplementary Information for replacement page received on 15.4.2019 |
| Appendix Ic | Further Information received on 10.5.2019 |
| Appendix II | Extract of Town Planning Board Guidelines for Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10) |
| Appendix III | Public Comments |
| Appendix IV | Advisory Clauses |
| Drawing A-1 | Layout Plan submitted by the applicant |
| Drawing A-2 | Elevation and Section Plan submitted by the applicant |
| 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
MAY 2019**