

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/I-TCV/15**

- Applicant** : Mr. LI Yip-hing, Simon
- Site** : Lot 1845 in D.D.1 TC, Tung Chung Valley, Lantau Island
- Site Area** : About 492.7m<sup>2</sup>
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tung Chung Valley Outline Zoning Plan No. S/I-TCV/2
- Zonings** : “Residential (Group C)2” (about 67.5%)  
[restricted to maximum plot ratio of 1 and building height of 25mPD]  
“Other Specified Uses” annotated “Polder” (about 29.4%)  
“Conservation Area” (about 3.1%)
- Application** : Proposed Temporary Agricultural Use with Ancillary Storage Use 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 agricultural use with ancillary storage use for a period of 3 years (**Plan A-1**). The Site falls within an area partly zoned “Residential (Group C)2” (“R(C)2”) (about 67.5%), partly zoned “Other Specified Uses” annotated “Polder” (“OU(Polder)”) (about 29.4%) and a minor portion zoned “Conservation Area” (“CA”) (about 3.1%) on the approved Tung Chung Valley Outline Zoning Plan (the OZP) No. S/I-TCV/2. According to the Notes of the OZP, ‘Agricultural Use (other than Plant Nursery)’ use is always permitted within “CA” zone, but planning permission from the Town Planning Board (the Board) is required for the applied use for a period of 3 years within “R(C)2” and “OU(Polder)” zones.

- 1.2 The Site, with an area of 492.7m<sup>2</sup>, is currently vacant. According to the applicant, the area for the proposed temporary agricultural use (growing of vegetables) is 462.7m<sup>2</sup> and there will be 2 single-storey containers (each of about 6m (L) x 2.4m (W) x 2.6m (H)) with a covered area of about 30m<sup>2</sup> for ancillary storage of cultivation tools. The operation hours will be from 9:00 a.m. to 5:00 p.m. on Mondays to Sundays (including public holidays), during which farmers would work on the Site. According to the applicant, planting troughs for growing vegetables will be used. The proposed use would not involve excavation or filling of land at the Site. Plans showing the site location and layout 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 6.7.2020 **(Appendix I)**
  - (b) Replacement Page of application form clarifying proposed uses, development parameters and Supplementary Information with revised location and site plans received on 10.7.2020 **(Appendix Ia)**
  - (c) Supplementary Information received on 13.7.2020 clarifying application number **(Appendix Ib)**
  - (d) Supplementary Information received on 15.7.2020 submitting revised layout plan **(Appendix Ic)**
  - (e) Further Information received on 5.8.2020 to clarify operational aspects of the proposed use and working hours of the farmers (accepted and exempted) **(Appendix Id)**

## **2. Justifications from the Applicants**

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

- (a) the Site is intended for agricultural use and not for hobby farm purpose. Two containers at the Site will be used for storing cultivation tools;
- (b) there will be no excavation and filling of land at the Site;
- (c) as the proposed use will adopt organic farming, no chemical fertilizers will be used; and
- (d) no sewage or pollution problems will be generated. Farmers are local villagers living nearby.

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

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

#### 4. **Background**

The Site is currently not subject to any active planning enforcement case. Should there be sufficient evidence to prove that any use on the Site constitutes an unauthorized development (UD) under the Town Planning Ordinance, enforcement action would be instigated.

#### 5. **Previous Application**

There is no previous application at the Site.

#### 6. **Similar Applications**

6.1 There is no similar application for proposed temporary agricultural use with ancillary storage use in Tung Chung Valley (TCV) area. However, there were 13 applications for temporary uses for/with warehouse and/or open storage, all rejected by the Rural and New Town Planning Committee (RNTPC) between 2017 and 2020 on the grounds that the development will frustrate/ is not in line with the planning intention(s), causing adverse ecological, landscape, visual and/or environmental impacts and setting of an undesirable precedent (**Appendix II**). They include temporary warehouse and/or open storage for construction tools, construction machinery and/or construction materials (No. A/I-TCV/1 to 7, 10 to 13), storage of daily necessities, retail shop with ancillary office (No. A/I-TCV/9), and temporary wholesale trade (wholesale vegetable market) with ancillary warehouse and office (No. A/I-TCV/14) in TCV area (**Plan A-1**) within various zones, including “Village Type Development” (“V”) zone, “R(C)2” zone, “Other Specified Uses” annotated “River Park” (“OU(River Park)”) zone, “OU(Stormwater Attenuation and Treatment Ponds)” zone and/or ‘Road’ area.

6.2 Details of the applications for various temporary use(s) for/with warehouse and/or open storage uses in TCV area are summarised in **Appendix II** for Members’ reference. Their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) currently vacant and covered by grass (**Plans A-4 and A-5**); and
- (b) a minor portion of the Site (about 3.1%) falls within the riparian area of Tung Chung Stream which is zoned “CA” and is previously subject of an enforcement case (CEP/E/LI-TCV/7) against unauthorized land filling (**Plan A-2**).

- 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 vacant/unused land, active and fallow agricultural land, parking of lorries and deposition of sand;
  - (b) to the immediate west, north and south are some vacant/unused land and parking of lorries;
  - (c) to the further south are some active/fallow agricultural land;
  - (d) to the east of the Site, about 20m away, is the western tributary of Tung Chung Stream;
  - (e) to the further north are some deposition of sand; and
  - (f) to the further west of the Site is Lam Che Village (about 100m) (**Plan A-1**).

## **8. Planning Intention**

- 8.1 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.
- 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.
- 8.3 The planning intention of “OU(Polder)” zone is for the development of polders, which form part of the sustainable drainage and flood prevention system in TCV.

## **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:

### **Land Administration**

- 9.1.1 Comments of the District Lands Officer/Islands, Lands Department (DLO/Is, LandsD):
- (a) the Lot is demised for agricultural use under the Block Government Lease. No structure shall be erected on the Lot without LandsD’s prior approval;
  - (b) 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, the owner(s) of the Lot may have to submit to LandsD an application for STW to cover the structure built/to be built. LandsD would process the application in the capacity of the landlord. There is no guarantee that such application will be approved. If such application is approved, the approval will be subject to such terms and conditions, including payment of fees, as may be imposed by LandsD;

- (c) his office has not received any complaint relating to the Lot; and
- (d) if the planning application is not approved and if there is any unauthorized structure found on the Site, appropriate lease enforcement action will be taken by his office in accordance with the established practice.

### **Public Works Programme**

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

the Site partly falls into the proposed polder works area under Agreement No. CE 70/2015(CE) Tung Chung New Town Extension (West) – Design and Construction (the project). As the subject application period is for a 3-year period, i.e. valid until late 2023 at the earliest, which might be in conflict with implementation of the above project, this office has some reservation on the subject application. Should the application be approved, the applicant should be advised that the Site might be subject to land resumption at any time before the expiry of the planning permission. Besides, access should be allowed for the Government to carry out necessary advance works in relation to the proposed polder works.

### **Traffic**

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

he has no in-principle objection to the application from the traffic engineering point of view.

### **Environment**

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

- (a) based on the application proposal in **Appendices I and Id**, it is understood that the proposed use will involve planting of vegetables in troughs with placement of two containers (each of about 6m x 2.4m x 2.6m (LxWxH)) on the Site for storage

of the agricultural tools. The Site will not be used as leisure farm and excavation and filling of land would not be required. The applicant indicates that there would be no sewage discharge arising from the proposed uses and no fertilizers or pesticides would be used;

- (b) there is no public sewerage available in the vicinity;
- (c) considering the above and the nature of the proposed uses, adverse environmental impact and adverse impact upon water quality of Tung Chung Stream are not anticipated and he has no adverse comment on the application from the environmental perspective; and
- (d) no complaint record was found and no enforcement action was taken against the Site in the past three years.

### **Urban Design and Visual**

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

- (a) it is noted that the applicant seeks planning permission for the proposed temporary agricultural use with ancillary storage use for a period of 3 years at the Site. The Site falls within an area partly zoned “R(C)2”, partly zoned “OU(Polder)” with a minor portion within area zoned “CA” on the approved TCV OZP;
- (b) the Site is currently vacant and accessible by a track. The surrounding area is of a rural and natural character. The proposed use is not incompatible with the surrounding environment; and
- (c) the two containers proposed for ancillary storage use are located in the area zoned “R(C)2”. Given the small scale of structures (two single-storey containers of about 2.59m high), no significant visual impact is anticipated.

### **Landscape**

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

- (a) with reference to the aerial photo of 2019 and site photos taken in July 2020, the Site is fully covered with self-seeded vegetation and no existing tree is observed within the Site. The Site is situated in an area of miscellaneous rural fringe landscape character predominated by woodlands, farmlands and village houses. The proposed development is not incompatible with the surrounding environment, and

significant adverse landscape impact arising from the proposed development is not envisaged. Hence, she has no objection to the application from landscape planning perspective; and

- (b) approval of the planning application does not imply approval of tree works such as felling, transplanting or pruning under lease. Applicant is reminded to approach relevant authority/government department(s) direct to obtain necessary approval on tree works.

### **Nature Conservation**

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

- (a) he has no strong view on the application from nature conservation perspective. It is noted that the Site is largely vacant and disturbed in nature. The applicant also states that no land excavation and no tree felling would be involved in the proposed agricultural use. However, no storage or placement of containers should be allowed within the "CA" zone. The applicant should also ensure that no discharge from the Site is diverted to Tung Chung Stream located to the east of the Site; and
- (b) it is considered feasible to plant crops in planting troughs as proposed by the applicant in **Appendix Id.**

### **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) he has no in-principle objection under the Buildings Ordinance to the proposed use in the Site;
- (b) if the Site is a leased land and the development is not a New Territories Exempted House (NTEH), the applicants' attention is drawn to the following points:
  - (i) for any existing structures erected on leased land without approval of the BD (not being a NTEH), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the subject application;
  - (ii) before any new building works 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 leased 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; and
  - (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.



### **Fire Safety**

#### 9.1.10 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 and water supplies for firefighting being provided to the satisfaction of his Department; and
- (b) 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 planning 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 planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board.

#### 9.2 The following government departments have no comment on/no objection to the application:

- (a) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Director of Food and Environmental Hygiene (DFEH);
- (d) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (e) District Officer (Islands), Home Affairs Department (DO(Is), HAD);
- (f) Director of Leisure and Cultural Services (DLCS); and
- (g) Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD).

## **10. Public Comments Received During Statutory Publication Period**

On 17.7.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 7.8.2020, two public comments were received from Kadoorie Farm and Botanic Garden and an individual (**Appendix III**) respectively raising concern on the application in relation to the impact on the future polder development, insuitability of the Site for farming due to flooding and unclear information of the proposed use.

## 11. Planning Considerations and Assessments

- 11.1 The applicant seeks planning permission for proposed temporary agricultural use with ancillary storage use for a period of 3 years within an area partly zoned “R(C)2” (about 67.5%), partly zoned “OU(Polder)” (about 29.4%) and a minor portion zoned “CA” (about 3.1%) on the TCV OZP. According to the Notes of the OZP, ‘Agricultural Use (other than Plant Nursery)’ use is always permitted within “CA” zone, but planning permission is required for the applied use for a period of 3 years within “R(C)2” and “OU(Polder)” zones. 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. 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 planning intention of “OU(Polder)” zone is for the development of polders, which form part of the sustainable drainage and flood prevention system in TCV.
- 11.2 The Site partly (about 29.4%) falls into the proposed polder works area which might be in conflict with the implementation of the project. While H(SLO), CEDD has some reservation on the application, he suggests that the applicant should be advised that the Site might be subject to land resumption at any time before the expiry of the planning permission and access should be allowed for the Government to carry out necessary advance works. In view of this, approval of the application on a temporary basis would not jeopardize the implementation of the polder. Relevant advisory clause has been recommended in **Appendix IV**.
- 11.3 The proposed agricultural use for a period of 3 years would also not jeopardize the long-term planning intention of the “R(C)2” zone.
- 11.4 The Site is currently vacant and accessible by a track. The surrounding area is of a rural and natural character predominated by woodlands, farmlands and village houses. The proposed use is not incompatible with the surrounding rural and natural environment and significant adverse landscape impact is not envisaged. Given the small scale of structures (two single-storey containers of about 2.59m high) located within the “R(C)2” zone, no significant visual impact is anticipated. In this regard, CTP/UD&L, PlanD, has no objection to the application from both visual and landscape planning perspectives. From nature conservation perspective, DAFC has no strong view on the application as the Site is largely vacant and disturbed and no land excavation or tree felling would be involved. The applicant will also be advised that no storage or placement of containers is allowed in “CA” zone.
- 11.5 According to the applicant, as organic farming will be adopted, no chemical fertilizers will be used at the Site. There will be no sewage and pollution problems generated by the proposed use. The applied use does not involve excavation or filling of land. DEP has no adverse comment from environmental perspective as adverse environmental impact and adverse impact upon water quality of Tung Chung Stream are not anticipated.

- 11.6 Other government departments, including C for T, CE/HK&Is, DSD, D of FS, DEMS, H(GEO), CEDD, DFEH and CE/Construction, WSD, have no objection to/adverse comment on the application.
- 11.7 There were 13 planning applications for temporary uses for/with warehouse and/or open storage uses in TCV area rejected by the RNTPC between 2017 and 2020. However, they are different in nature from the current application for temporary agricultural use and therefore do not warrant the same consideration.
- 11.8 Two public comments were received, both raising concerns on grounds as summarized in paragraph 10 above. The above planning assessments and considerations at paragraphs 11.1 to 11.7 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 has no objection to the application.
- 12.2 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 3 years until **4.9.2023**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) 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 **4.3.2021**;
- (b) in relation to (a) 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 **4.6.2021**;
- (c) in relation to (b) above, the maintenance of the implemented drainage facilities at all times during the planning approval period;
- (d) the submission of a fire service installations and water supplies proposal for firefighting within **6 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **4.3.2021**;
- (e) in relation to (d) above, the implementation of the fire service installations and water supplies proposal for firefighting within **9 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **4.6.2021**;

- (f) if the above planning condition (c) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (g) if any of the above planning conditions (a), (b), (d) or (e) is not complied with by the specified date, the planning 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 IV**.

12.3 There is no strong reason to recommend rejection of the application.

### **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**

<b>Appendix I</b>	Application form received on 6.7.2020
<b>Appendix Ia</b>	Replacement Page of application form and Supplementary Information received on 10.7.2020
<b>Appendix Ib</b>	Supplementary Information received on 13.7.2020
<b>Appendix Ic</b>	Supplementary Information received on 15.7.2020
<b>Appendix Id</b>	Further Information received on 5.8.2020
<b>Appendix II</b>	Applications for Temporary Uses for/with Warehouse and/or Open Storage uses in TCV area
<b>Appendix III</b>	Public Comments
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Plan showing the Site location
<b>Drawing A-2</b>	Plan showing the layout
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4 and A-5</b>	Site Photos

**PLANNING DEPARTMENT  
SEPTEMBER 2020**