

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

**APPLICATION NO. A/I-TCV/16**

- Applicant** : Uni-Creation Investments Limited represented by Spence Robinson Limited
- Site** : Lots 2760 (Part) and 2761 (Part) in D.D.1 TC, Tung Chung Valley, Lantau Island
- Site Area** : About 110m<sup>2</sup>
- Land Status** : Block Government Lease
- Plan** : Approved Tung Chung Valley Outline Zoning Plan (OZP) No. S/I-TCV/2
- Zoning** : “Village Type Development”  
[restricted to maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Utility Installation for Private Project (Underground Sprinkler Water Tank and Pump Room)

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed utility installation for private project (underground sprinkler water tank and pump room) (**Plan A-1**). The Site falls within an area zoned “Village Type Development” (“V”) on the approved Tung Chung Valley Outline Zoning Plan (OZP) No. S/I-TCV/2. According to the Notes of the OZP, the proposed underground sprinkler water tank and pump room, which is regarded as ‘Utility Installation for Private Project’, is a Column 2 use within “V” zone requiring planning permission from the Town Planning Board (the Board).
- 1.2 The Site, with an area of about 110m<sup>2</sup>, is partly formed and partly grassy. According to the applicant, the proposed underground sprinkler water tank and pump room would occupy an area of about 60m<sup>2</sup> (12m (L) x 5m (W)) with a depth of 5m below ground level. Plans showing the site location, the layout and dimension of the underground water tank and pump room submitted by the applicant are at **Drawings A-1 to A-3**. The anticipated completion of the proposed use would be August 2021.

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

- (a) Application form received on 5.10.2020 **(Appendix I)**
- (b) Supplementary Information for revised location, layout and section plans received on 12.10.2020 **(Appendix Ia)**
- (c) Further Information on responses to departmental comments received on 18.11.2020 (accepted and exempted) **(Appendix Ib)**

## **2. Justifications from the Applicant**

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

- (a) the applied use is an essential utility facility to provide fire services to the existing columbarium buildings in the vicinity of the Site **(Drawing A-2)**;
- (b) since the required volume and size for the sprinkler provision shall be 37m<sup>3</sup> for the columbarium use, the space and height for water tank allowed on the roof of the houses will not be capable for the required water tank and pump room. The proposed underground sprinkler and pump room shall be necessary for the columbarium use;
- (c) there is no existing trees and shrubs within the Site, hence no trees would be felled or transplanted for the applied use. No environmental impact would be caused. Besides, since the applied use is an underground structure (5m below existing ground level) and small in scale, there would be no landscape and visual impact;
- (d) there is no retaining wall and steep slope in close vicinity of the Site and no geotechnical problem would be encountered;
- (e) no drainage and catchment area would be affected by the applied use. The existing surface channel for rainwater surface runoff will be reinstated after installation of the proposed use; and
- (f) as there is a diameter of 65mm town main supplying the existing street fire hydrant, the connection may be extended from that town main to the applied use at the Site.

## **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. **Background**

To the immediate south of the Site are eight houses on Lots 2754, 2755, 2756, 2757, 2758, 2760 and 2761 within the same “V” zone. Columbarium use within the seven 3-storey and one 2-storey building structures on these lots were in existence immediately before the first publication in the Gazette of the notice of the draft Tung Chung Valley (TCV) development permission area (DPA) plan (i.e. 21.8.2015) and can be regarded as ‘Existing Use’ (EU) under the Town Planning Ordinance (TPO) (**Plan A-2**). An application for licence for the columbarium use at the eight building structures has been submitted to the Private Columbaria Licensing Board under the Private Columbaria Ordinance (PCO)(Cap. 630) and the application is being processed by the Private Columbaria Affairs Office (PCAO). The proposed underground sprinkler water tank and pump room have been indicated in the revised proposed plans submitted for the licence application.

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

There is no previous application at the Site.

#### 6. **Similar Application**

There is no similar application for ‘Utility Installation for Private Project’ within the same “V” zone on the OZP. There is an application for a temporary meter room for a period of 5 years with excavation of land at the “Green Belt” (“GB”) zone (to the east of the subject “V” zone) (No. A/I-TCV/8), which was rejected by the Rural and New Town Planning Committee (RNTPC) on 31.5.2019 (**Plan A-1**) as the proposed development was not in line with the planning intention of the “GB” zone and there were no strong planning grounds and justifications provided in the submission for a departure from the planning intention.

#### 7. **The Site and Its Surrounding Areas** (**Plans A-1 to A-4**)

7.1 The Site is:

- (a) located partly on a formed platform and partly grassy, and falls within the Village Environs (‘VE’) of Nim Yuen village (**Plans A-2 to A-4**); and
- (b) forming part of a larger “V” zone area which is fenced off in its north and is only accessible by a footpath after passing through the entrance gates at Lots 1910 and 1917 in D.D.1 TC (**Plan A-2**).

7.2 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 TCV area;

- (b) to the further east, south and southwest of the “V” zone are densely vegetated areas zoned “GB” (**Plan A-3**); and
- (c) Lam Che Village is located to the further north (**Plan A-3**).

## **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 “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. 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.

## **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) Lot 2760 is demised for building (0.01 acre house land) and agricultural purpose (0.03 acre courtyard) under the Block Government Lease. Lot 2761 is demised for building (0.03 acre house land) and agricultural purpose (0.05 acre courtyard) under the Block Government Lease. Approval Letters for permitting the construction of one house (a maximum roofed-over area of 39.0m<sup>2</sup>) on Lot 2760 and the construction of two houses (each of a maximum roofed-over area of 60.4m<sup>2</sup>) on Lot 2761 were issued by his office on 29.4.2014 and 30.4.2014 respectively. Except the houses mentioned in the Approval Letters, no structures shall be erected on the Lots without LandsD’s prior approval;
  - (b) Condition No. 3 in the respective Approval Letters states that one water storage tank not exceeding 2m<sup>2</sup> in area and 1.22 metres in height, may be installed at any point (other than on the stairhood) on the roof of the house. The applicant should

justify the necessity of having the underground sprinkler water tank and pump room to the satisfaction of the Board. Besides, according to the Approval Letters for permitting construction of 3 NTEHs on the Lots, there is no provision of fire safety requirement;

- (c) there is no approved Short Term Waiver (STW) in respect of the Lots and there is no STW application in connection with the Lots under processing. If the planning application is approved and the applicant subsequently submits application for approval to cover the proposed underground sprinkler water tank and pump 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 application would be approved;
- (d) there is no outstanding Small House application falling within the concerned “V” zone encircling two recognized villages, namely Nim Yuen (portion) and Lam Che;
- (e) his office has not received any complaint concerning the proposed underground sprinkler water tank and pump room at the Site. There is no on-going lease enforcement action against the Lots; and
- (f) the buildings erected on the Lots and five other nearby lots, namely Lots 2754, 2755, 2756, 2757 and 2758 all in D.D.1 TC, are included in a licence application submitted under the PCO (Cap. 630). The specification of the proposed use under the planning application is different from that shown in the relevant layout plans in the licence application submitted under the PCO.

### **Traffic**

#### 9.1.2 Comments of the Commissioner for Transport (C for T):

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

### **Environment**

#### 9.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) he has no comment on the application; and
- (b) no complaint record was found and no enforcement action was taken against the Site in the past three years.

## **Environmental Hygiene**

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

- (a) the PCO, which regulates the operation of private columbaria through a licensing scheme, has been enforced since the gazette on 30.6.2017. According to the PCO, 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 TPO (Cap. 131) and other requirements prescribed in the PCO 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. The proposed utility installation for private project (underground sprinkler water tank and pump room) has been indicated in the revised proposed plans submitted for the licence application. However, there is discrepancy in the shape of the proposed utility between the revised proposed layout plan submitted for the licence application and the proposed layout plan shown in the planning application.

## **Building Matters**

### 9.1.5 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 (BO) to the proposed use at the Site, provided that the proposed building works are in compliance with the BO;
- (b) a referral from the PCAO in respect of an application for a licence under the PCO (Cap. 630) for the Site is being

processed by the Licensing Unit (LU) of the BD. In consideration of the licence application, LU will assess on fire safety aspects (including fire resisting construction, means of access for firefighting and rescue, means of escape in case of fire), the structural safety aspect and the existence of Unauthorized Building Works (UBW). In this connection, he has no comment on whether the applied uses are essential facilities under the BO and for compliance with the building-related requirements under the PCO;

- (c) the applicant's attention is also 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 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 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 with 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**

#### 9.1.6 Comments of the Director of Fire Services (D of FS):

- (a) he has no objection to the installation of the subject underground sprinkler water tank and pump room provided that fire service installations and water supplies for firefighting being provided to the satisfaction of his department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans;
- (b) as no details of EVA have been provided, comments could not be offered by his 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;
- (c) the following approval conditions are required:
  - (i) the submission of fire service installations and water supplies proposal for firefighting to the satisfaction of the D of FS or of the Board;
  - (ii) in relation to (i) above, the implementation of the fire service installations and water supplies proposal for firefighting to the satisfaction of the D of FS or of the Board;
  - (iii) the design and provision of an EVA for fire services appliances and personnel to the satisfaction of the D of FS or of the Board; and
- (d) the formulation of fire service installations for the concerned columbarium buildings is at preparation stage. It cannot be confirmed at this stage whether the subject sprinkler water tank and pump room is essential from fire safety point of view.

### **Landscape**

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

- (a) according to aerial photo of 2019, the Site is situated in a rural and natural landscape character predominated by woodland, village houses and farmlands. The Site is



surrounded by dense woodland and covered with grassland. No existing tree is observed within the Site. Tung Chung Stream is located to the further east of the Site. The proposed development is considered not incompatible with the landscape character of the surrounding area; and

- (b) noting that the proposed development would only involve underground works, significant adverse landscape impact arising from the proposed works is not envisaged. As such, she has no objection to the application from landscape planning perspective.

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

given that no venues or vegetation under management of Leisure and Cultural Services Department (LCSD) will be affected and there is no LCSD maintained tree at the Site, he has no comment on the application.

**Nature Conservation**

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

he has no comment on the application. It is noted that the Site is an area partly paved and partly grassy located next to the existing buildings. No tree felling would be involved.

**Drainage**

9.1.10 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.

### **Electricity Safety**

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

- (a) he has no comment from regulatory services perspective; and
- (b) 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 application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

9.2 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 Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD); and
- (e) District Officer (Islands), Home Affairs Department (DO(Is), HAD).

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

On 16.10.2020, the application was published for public inspection. During the three weeks of the statutory public inspection period, which ended on 6.11.2020, 36 public comments were received (**Appendix II**). 32 private individuals (one with 15 signatures) support the application mainly on the ground that the applied use would be necessary for providing firefighting installations for the nearby village houses. Besides, 4 comments objecting to the application were received from a private individual and the Village Representatives of Lam Che and Nim Yuen (with a total of 132 signatures including 22 from Lam Che, 36 from Ma Wan Chung, 53 from Mok Ka, 20 from Ngau Au and one signature from Mun Tung Estate). They object to the application mainly on the grounds that the proposed underground sprinkler water tank and pump room are to provide fire service installation to the existing columbarium use which is not in line with the planning intention of “V” zone and will affect the surrounding environment and create fire risk. Approval of the application means approval of the columbarium use and reduce the amount of land in the “V” zone available for village development.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for the provision of private utility including an underground sprinkler water tank and pump room at the Site in Nim Yuen within the “V” zone in TCV. The planning intention of “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Although according to DLO/Is, LandsD, there is no outstanding Small House application falling within the concerned “V” zone for Nim Yuen and Lam Che, land within “V” zone is primarily intended for development of Small Houses by indigenous villagers.
- 11.2 According to the applicant, the proposed use is an essential facility to provide fire services for the existing columbarium use adjoining the Site in the same “V” zone. While the columbarium use adjoining the Site was in existence before the gazette of the draft TCV DPA Plan and can be regarded as an EU tolerated under the TPO, ‘Columbarium’ use is neither Column 1 nor Column 2 use and is not permitted within “V” zone on the OZP. The columbarium use (including its ancillary uses) should be confined within the EU structures as far as possible and should not encroach onto other parts of the subject “V” zone. As the proposed underground sprinkler water tank and pump room are intended to serve the existing columbarium use but not any village development within the “V” zone, the proposal is considered not in line with the planning intention of the “V” zone. There is no strong planning justification in the submission for a departure from such planning intention.
- 11.3 It is noted that an application for licence for the columbarium adjoining the Site has been submitted and is being processed by the PCAO. According to the applicant, the existing columbarium structures necessitate the provision of underground sprinkler water tank and pump room. The space and height for water tank allowed on the roof of the houses will not be capable of accommodating water tank and pump room with a volume of 37m<sup>3</sup> for the columbarium use. In this regard, D of FS advises that the formulation of fire service installations for the columbarium use is at preparation stage. It cannot be confirmed at this stage whether the proposed installation is essential from fire safety point of view. CBS/NTE1&L, BD advises that fire safety aspects (including fire resisting construction, means of access for firefighting and rescue, means of escape in case of fire) will be assessed in respect of an application for a licence under the PCO. The applicant fails to demonstrate that the proposed use is an essential facility and that provision of water tank and pump room within the existing EU structures is not feasible.
- 11.4 The Site is situated in an area with rural and natural landscape character predominated by woodland, farmland and village houses at the western fringe of the TCV area with the planning intention 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 underground sprinkler water tank and pump room is small in scale and is considered not incompatible with the landscape character of the surrounding area. However, the adjoining columbarium use which the proposed private utility under the application is intending to serve is not compatible with the rural and natural character of the area, in particular taking into account the

traffic demand during the Ching Ming and Chung Yeung Festivals.

- 11.5 Relevant departments, including DEP, C for T, CE/HK&Is, DSD, H(GEO) and H(SLO) of CEDD, and CE/Construction, WSD, have no comment on/objection to the application on technical aspects.
- 11.6 36 public comments were received which object to/support the application on grounds as summarized in paragraph 10 above. The planning considerations and assessments in the above paragraphs 11.1 to 11.5 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 use is not in line with the planning intention of the “V” zone which is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. There is no strong planning justification in the submission for a departure from such planning intention; and
  - (b) the applicant fails to demonstrate that the proposed use is an essential facility and that provision of water tank and pump room within the existing EU structures is not feasible.
- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until **4.12.2024**, 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 and implementation of fire service installations and water supplies proposal for firefighting to the satisfaction of the Director of Fire Services or of the Board;
- (b) the design and provision of an EVA for fire services appliances and personnel to the satisfaction of the Director of Fire Services or of the Board; and
- (c) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Board.

### Advisory Clauses

The recommended advisory clauses are attached at **Appendix III**.

### 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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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. **Attachments**

<b>Appendix I</b>	Application form received on 5.10.2020
<b>Appendix Ia</b>	Supplementary Information for revised location, layout and section plans received on 12.10.2020
<b>Appendix Ib</b>	Further Information on responses to departmental comments received on 18.11.2020
<b>Appendix II</b>	Public Comments
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Location Plan submitted by the applicant
<b>Drawing A-2</b>	Layout Plan submitted by the applicant
<b>Drawing A-3</b>	Section Plan submitted by the applicant
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
DECEMBER 2020**