

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/I-TCV/3

- Applicant** : Ever Harvest Creation Limited
- Site** : Lot 2615 in D.D.1 TC, Tung Chung Valley, Lantau Island
- Site Area** : About 578.8 m²
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tung Chung Valley Outline Zoning Plan (OZP) No. S/I-TCV/2
- Zonings** : Area shown as ‘Road’ (about 58%) and “Other Specified Uses” annotated “River Park” (about 42%)
- Application** : Proposed Temporary Warehouse for 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 warehouse for storage of construction materials for a period of 3 years (**Plan A-1**). The Site falls within an area partly shown as ‘Road’ and partly zoned “Other Specified Uses” annotated “River Park” (“OU (River Park)”) 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 warehouse use of the Site requires permission from the Town Planning Board (the Board).
- 1.2 The proposal comprises a single-storey (7.62m) warehouse with a total floor area of about 578.8 m² for storage of construction materials. Hoarding will be erected along the site boundary. No parking space or loading/ unloading space will be provided within the Site. The applicant proposes to use the local track to the north for access to the Site with an entrance located at its eastern boundary (**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 1.12.2017 **(Appendix I)**
- (b) Replacement page for the application form received on 7.12.2017 **(Appendix Ia)**
- (c) Further Information received on 13.12.2017 clarifying the traffic arrangement **(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) Although the Site is demised for agricultural use on the lease, it was paved with asphalt and stone debris when the applicant bought the land in 2015. The Site is currently a brownfield site and not suitable for cultivation.
- (b) There are many sites in the vicinity used for logistic operations and storage of goods and construction materials. Since there is no proper site designated for industrial and warehouse uses in Tung Chung, the proposed warehouse use would better utilize land resources, protect the surrounding environment and complement the development of Hong Kong.
- (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 the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to any active enforcement action.

5. Previous Application

There is no previous application at the Site.

6. Similar Application

There are six applications for temporary warehouse/ open storage construction materials in Tung Chung Valley area. One application (No. A/I-TCV/1) falling within an area shown as ‘Road’ was rejected by the Rural and New Town Planning

Committee (RNTPC) on 22.12.2017 on the grounds that the development will frustrate the planning intention, adverse landscape and visual impacts and setting an undesirable precedent. Three applications (No. A/I-TCV/2, 4 and 5) falling within “OU (River Park)” zone, “Residential (Group C) 2” (“R(C)2”) zone and/ or ‘Road’ area will be considered by the RNTPC in this same meeting. Two applications (No. A/I-TCV/6 and 7) for temporary open storage of construction materials falling within “R(C)2” zone and “Village Type Development” zone respectively and are tentatively scheduled for consideration by the RNTPC on 9.2.2018 (**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 north (**Plan A-2**);
- (b) largely formed with the western part covered by vegetation;
- (c) partly located within an area reserved for the proposed River Park and partly within an area reserved for the construction of new Road L29 in Tung Chung Valley; and
- (d) currently occupied by eight containers and some car parking under an open shed (**Plans A-4 and A-5**) without planning permission.

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, open storages, warehouses, some deposition of containers, a vehicle repairing workshop and residential dwellings;
- (b) to its west and south are vacant land and fallow agricultural land. Tung Chung Ecologically Important Stream (EIS) which forms part of the proposed River Park is located to its east (about 20m);
- (c) a warehouse, some deposition of containers and some open storages which are suspected unauthorized developments (UDs) are found in the area. There are also a warehouse, a vehicle repairing workshop and an open storage of construction equipment which are existing uses; and
- (d) some residential dwellings are located about 90m to its northwest and west and about 110m to its southeast.

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 area shown as ‘Road’ on the OZP is based on the road network planned under the “Planning and Engineering Study on the Remaining Development in Tung Chung – Feasibility Study” (Tung Chung Study) so as to provide convenient external and internal connection for the area.
- 8.3 The planning intention of “OU (River Park)” zone is primarily for the development of River Park, which forms part of the sustainable drainage and flood prevention system in the Tung Chung Valley area. It is also intended to protect and retain the existing natural landscape, ecological or topographic features of the area for preservation, flood prevention, educational and research purposes through the development of River Park and to separate sensitive natural environment of the Tung Chung EIS from the adverse effects of development.

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 and River Park 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 warehouse falls within a proposed road and River Park 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 and River Park.

Land Administration

- 9.1.2 Comments of the District Lands Officer/Islands, Lands Department (DLO/Is, LandsD):
- (a) from the 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 Government’s approval;

- (c) the Short Term Waiver (STW) application for the Site for temporary warehouse for storage and logistic centre use has been rejected by his office on 7.11.2017 and no Short Term Tenancy (STT)/ STW concerning the Site is currently under processing;
- (d) no complaint concerning the Site has been received by his office;
- (e) it is noted that structures are erected on the Site and portions of government land. The Government reserves all right to take appropriate lease enforcement and land control actions; and
- (f) should planning approval be given to the subject planning application and the applicant submits application for STW, LandsD would process the application in the capacity of a landlord and it will be subject to such terms and conditions including payment of fee as appropriate. There is no guarantee that such application would be approved. The applicant should also 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 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 occupied by a temporary structure for storage purpose and is accessible by a track. It is located in close proximity to the existing natural stream, in which the eastern part of the Site falls within an area zoned “OU (River Park)”, which is an important landscape feature in Tung Chung Valley with rather dense vegetation on both sides. The surrounding area is of a rural and natural character. There is however no information in the current submission on how the proposal will not cause conflict with the natural stream and surrounding environment from urban design perspective and its potential visual impact on the surrounding has not been ascertained.

Landscape

9.1.6 Comments of CTP/UD&L, PlanD:

- (a) she has some reservations on the application from a landscape planning perspective. The Site partly falls within an area partly shown as ‘Road’ and partly zoned “OU(River Park)” on the OZP;
- (b) the Site is currently occupied by temporary structure for storage purpose and connected with an existing access. The Site is in close proximity to an existing natural stream, Tung Chung EIS, which is the important landscape feature in Tung Chung Valley. 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;
- (c) as observed from aerial photo, the Site was already hard paved with some vegetation before the current temporary structure. Noticeable disturbance to the existing landscape resources had been caused prior to the application. Approval of the application may encourage other applicants to clear and develop the sites prior to planning permission is obtained. Some dense vegetation has been removed and become hard paved with existing uses of open storage and temporary structures at areas in adjacent to the Site. The impacts on the existing landscape resources and natural landscape character have already been taken effect;
- (d) vegetation surveys within and in close proximity of the Site are not included. Any large, important trees or plant species of conservation interests are not identified. The potential

adverse impacts on the existing trees/ vegetation cannot be fully ascertained;

- (e) no information regarding any other temporary access which may be formed/ operated during site formation works and proposed use as warehouse that will be in conflict with existing vegetation/ trees outside the Site is given. The proposed warehouse for 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. The width of the existing access is also not given. The overall impacts to the landscape resources/ existing trees/ vegetation cannot be fully assessed;
- (f) information regarding the proposed drainage system and discharge of storm/ foul water is not given. Also, the proposal for conservation of existing stream is not given. Further potential impacts on existing trees due to laying of ducts and to the existing natural stream in close vicinity cannot be assessed;
- (g) approval of the application may create a ripple effect for other applications for this area partly zoned as “OU(River Park)”, resulting in the overall gradual modification and degradation of the natural landscape character of the area;
- (h) the proposed temporary use is not in line with the planning intention of “OU (River Park)” zone; and
- (i) should the Board approve this application, a condition on submission and implementation of a landscape proposal including edge treatment plantings to the satisfaction of the Director of Planning or of the Board is recommended. Considered the proposed land use of temporary warehouse is not entirely compatible with the surroundings, it is recommended that proper edge treatment should be provided to the Site for screening purpose. The applicant shall make reference to paragraphs 6 to 8 of ‘Technical Note on the Submission and Implementation of Landscape Proposals for compliance with Conditions for Approved Applications for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ for provision of edge treatment plantings. The applicant is also advised that under the above technical note, a minimum of 1m width of screen planting is recommended for site of temporary use of size below 1 ha.

Nature Conservation

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

he has reservation on the application. While it is noted that the Site is already paved, it encroaches upon the “OU (River Park)” zone, which intends to serve as a buffer to separate the Tung Chung EIS from the adverse effect of development.

Drainage

9.1.8 Comments of the Chief Engineer/Hong Kong & Islands, Drainage Services Department (CE/HK&I, 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) 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 from the Building Authority should be obtained, otherwise they are UBW. The permissible site coverage and plot ratio for individual site for private developments should comply with Regulations 20 and 21 of the Building (Planning) Regulations (B(P)R). If a private site does not abut on a specified street, the development intensity (i.e. site coverage, plot ratio and building height(s)) of the building shall be determined by the Building Authority under Regulation 19(3) of the B(P)R upon formal submission of building plans to BD;

- (d) the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the B(P)R respectively; and
- (e) detailed comments under the BO on individual sites for private developments 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) recent site inspection by Fire Services Department (FSD) revealed that the distance from the nearest fire hydrant, which could be practically utilized as the main source of water supply for the Site during emergency, to the Site is about 670m;
- (b) he has no objection in principle to the application subject to water supply for firefighting, e.g. to provide fire hydrant system with adequate flow, pressure and size of water tank in the Site and fire service installations (FSIs) being provided to his satisfaction;
- (c) 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 FSD for approval. In addition, the applicant should also be advised on the following points:
 - (i) the layout plans should be drawn to an appropriate scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSI to be installed should be clearly marked on the layout plans; and

- (d) however, the applicant should be 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) it is noted that the Site partly falls within the future road under CEDD's Tung Chung West project, where there will be proposed water mains affected;
- (b) for provision of water supply to the Site, the applicant may need to extend his/ her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards; and
- (c) 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 8.12.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 29.12.2017, eleven public comments were received from five green groups including Kadoorie Farm & Botanic Garden Corporation, World Wide Fund for Nature Hong Kong, Designing Hong Kong Limited, Save Lantau Alliance and Green Power and six private individuals (**Appendix II**). All of them object to the application mainly on the grounds of adverse impact on the future development of River Park, incompatibility with the existing environment, not being in line with the planning intention of the area, adverse environmental, ecological, landscape and traffic impacts, air and noise pollution, flood risk, soil and water contamination, pollution to Tung Chung EIS, setting an undesirable precedent to similar applications, encouraging similar UDs and the use of unauthorised road access.

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 partly shown as 'Road' (58%) and partly zoned "OU (River Park)" (42%) on the OZP. The 'Road' area is based on the road network planned under Tung Chung Study so as to provide convenient external and internal connection for the area. The planning intention of "OU (River Park)" zone is primarily for the development of River Park, which forms part of the sustainable drainage and flood prevention system in the area. It is also intended to protect and retain the existing natural landscape, ecological or topographic features of the area for preservation, flood prevention, educational and research purposes through the development of River Park and to separate sensitive natural environment of the Tung Chung EIS from the adverse effects of development. The construction works of the proposed road and River Park 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 and River Park. In this regard, both Head(SLO) of CEDD and DLO(Is) of LandsD do not support the application. The approval of the application will frustrate the planning intentions of the area for road use and "OU (River Park)" zone. There is no strong planning justification in the submission to support the departure from the planning intentions, even on a temporary basis.
- 11.2 The proposed temporary warehouse use is not compatible with the surrounding areas which are predominantly rural in nature. Besides, the Site is located close to the Tung Chung EIS (about 20m to the east) (**Plan A-2**). DAFC has reservation on the application as the proposed development encroaches upon the "OU (River Park)" zone which is intended to serve as a buffer to separate the Tung Chung EIS from the adverse effects of development. Although there are open storages, a vehicle repairing workshop and warehouses 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. In any cases, such uses falling within the boundary of the proposed River Park will be removed for the implementation of the River Park. CTP/UD&L, PlanD also has reservation on the application. The proposed warehouse 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 surveys and proposal for conservation of existing stream 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 ecological, landscape and visual impacts on the surrounding areas.
- 11.3 There are already seven applications, including the subject application, for temporary warehouse/ open storage of construction materials in the area. One

application (No. A/I-TCV/1) was rejected by the RNTPC on 22.12.2017. Three applications will be considered by the RNTPC in this same meeting and two applications are tentatively scheduled for consideration by the RNTPC on 9.2.2018. Approval of the application, even on a temporary basis, would set an undesirable precedent and encourage other applications for similar warehouse and open storage 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 Eleven public comments were received objecting to the application mainly on the grounds of land use incompatibility, adverse environmental, ecological, landscape and traffic impacts and undesirable precedent stated in paragraph 10. The above planning assessment 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 will frustrate the planning intentions of the Site for road use and "OU (River Park)" zone. There is no strong planning justification in the submission to support the departure from the planning intentions, even on a temporary basis;
- (b) the applicant fails to demonstrate that the proposed development will not have adverse ecological, 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 26.1.2021. 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) 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 **26.7.2018**;
- (e) in relation to (d) 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 **26.10.2018**;
- (f) in relation to (e) above, the maintenance of the implemented drainage facilities at all times during the planning approval period;
- (g) the submission of a landscape proposal including edge treatment plantings within **6 months** from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **26.7.2018**;
- (h) in relation to (g) above, the implementation of the landscape proposal including edge treatment plantings within **9 months** from the date of approval to the satisfaction of the Director of Planning or of the Town Planning Board by **26.10.2018**;
- (i) 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 **26.7.2018**;
- (j) in relation to (i) 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 **26.10.2018**;
- (k) if any of the above planning conditions (a), (b), (c) or (f) 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;
- (l) if any of the above planning conditions (d), (e), (g), (h), (i), or (j) 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
- (m) 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 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 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 1.12.2017
Appendix Ia	Replacement page for the application form received on 7.12.2017
Appendix Ib	Further Information received on 13.12.2017 clarifying the traffic arrangement
Appendix II	Public Comments
Appendix III	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 5	Site Photos

**PLANNING DEPARTMENT
JANUARY 2018**