

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/I-TCV/5

- Applicant** : Full Dragon Investment Limited
- Site** : Lot 1890 in D.D.1 TC, Tung Chung Valley, Lantau Island
- Site Area** : About 256.8 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** : "Residential (Group C) 2" (about 98%)
[maximum plot ratio of 1 and maximum building height of 25mPD]

Area shown as 'Road' (about 2%)
- 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 mainly zoned "Residential (Group C) 2" ("R(C)2") with a minor portion falling within an area shown as 'Road' 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 256.8 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 east to the Site for access with an entrance located at its northeastern corner (**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) Although the Site is zoned as “R(C)2” on the OZP, the Site is small in size and away from the town centre with no development potential in the meantime. The proposed warehouse use would better utilize land resources and meet the need of the society.
- (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 of 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, 3 and 4) falling within “Other Specified Uses” annotated “River Park” (“OU (River Park)”) zone and/ or ‘Road’ area will be considered by the RNTPC in this same meeting. Two applications for temporary open storage of construction materials falling within the same “R(C)2” zone and “Village Type Development” zone respectively 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-4)

7.1 The Site is:

- (a) accessible from Tung Chung Road via an informal local track to its east (**Plan A-2**);
- (b) mainly fallow agricultural land covered with vegetation, with the northern portion forming part of an existing local track (**Plan A-4**); and
- (c) slightly encroaching onto the proposed Road L26 (**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 cultivated/ fallow agricultural land, an open storage, deposition of concrete blocks and gravel, a columbarium and some residential dwellings;
- (b) to its immediate east and south are cultivated/ fallow agricultural land. Tung Chung Ecologically Important Stream (EIS) zoned as “Conservation Area” (“CA”) is located to its further east (about 45m);
- (c) to its north and west are mainly fallow/ cultivated agricultural land and vacant land. Lam Che Village (about 135m) and a columbarium in Nim Yuen are located to its further west;
- (d) the proposed Road L26 will be located to its immediate south. Two areas zoned “Other Specified Uses” annotated “Stormwater Attenuation and Treatment Ponds” located to its south across proposed Road L26 and “Other Specified Uses” annotated “Polder” located to its east and south will form part of the sustainable drainage and flood prevention system in the area; and
- (e) an open storage of construction materials which is a suspected UD is found to its further northwest. To its further east are sites for deposition of concrete blocks and gravel which are existing uses.

8. Planning Intention

- 8.1 The general planning intention of Tung Chung Valley area is to conserve the ecologically sensitive areas, to protect the rural and natural character, to maintain the unique landscape character and cultural heritage of the area.
- 8.2 The planning intention of “R(C)2” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.
- 8.3 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.

9. Comments from Relevant Government Departments

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

Road Programme

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

he does not support the application. The location of the proposed warehouse falls within a proposed road and about 18.3% of the Site falls within the works area of the proposed road under Agreement No. CE 70/2015 (CE) Tung Chung New Town Extension (West) – Design and Construction. The construction work will commence in Q1 2021 and prior clearance of the area will be required. The proposed development will affect the land resumption for the construction of the proposed road.

Land Administration

- 9.1.2 Comments of the District Lands Officer/Islands, Lands Department (DLO/Is, LandsD):
- (a) from the 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) no Short Term Tenancy (STT)/ Short Term Waiver (STW) concerning the Site is currently under processing;

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

Landscape

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

- (a) she has some reservations on the application from a landscape planning perspective. The Site (256.8m²) falls within an area mainly zoned “R(C)2” with a minor portion falls within an area shown as ‘Road’ on the OZP;
- (b) the Site is located on a flat land and is in close proximity to an existing natural stream, Tung Chung Stream, which is one of the important landscape resources zoned as “CA” covered with dense vegetation/ existing trees on both sides. The existing wider surrounding area of the Site is densely vegetated, with landscape resources of existing trees and shrubs, and of rural and natural landscape character as observed from the aerial photos;
- (c) as observed from the aerial photos, there is an existing access connected to the Site. Within the Site, the land is covered up by some vegetation with existing trees located close to the site boundary. Some areas in adjacent to the Site however are hard paved, with some existing uses of open storage and temporary structures;
- (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. Given 100% site coverage by the proposed structure, the significance of potential 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 information regarding the existing access is not clear and its width is also not given. The overall impacts to the landscape resources or 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; and

- (g) 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 for providing proper edge treatment 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 screening planting is recommended for the 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 no strong view on the application. It is noted that the Site is already paved and partly covered with a few fruit trees.

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 Sand 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) he has no objection in principle to the proposed development subject to fire service installations (FSIs) being provided to his satisfaction;

- (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to Fire Services Department for approval. In addition, the applicant should also be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSI to be installed should be clearly marked on the layout plans; and
- (c) 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) he has no objection to the application;
- (b) existing water mains will be affected. The applicant shall bear the cost of any necessary diversion works affected by the proposed development; 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, ten public comments were received from Kadoorie Farm & Botanic Garden Corporation, Save Lantau Alliance, Green Power and seven private individuals (**Appendix II**). All of them object to the application on the ground of 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 UD's 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 zoned "R(C)2" (98%) and partly shown as 'Road' (2%) on the OZP. The planning intention of 'R(C)2' zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. The proposed development is not in line with the planning intention of the "R(C)2" zone for residential developments. For the area shown as 'Road', it is based on the road network planned under Tung Chung Study so as to provide convenient external and internal connection for the area. Despite only a minor portion of the Site encroaches into the area shown as 'Road', the proposed warehouse falls within the works area of the proposed road (about 18.3%). The road construction work will commence in Q1 2021 and prior clearance of the area will be required. The proposed development will affect the land resumption for the construction of the proposed road. In this regard, both Head(SLO) of CEDD and DLO(Is) of LandsD do not support the application. The approval of the application will frustrate the planning intention of the area for road use. 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, Tung Chung EIS is located about 45m to the east of the Site (**Plan A-2**) within "CA" zone with dense vegetation cover on both sides. Although there are sites of deposition of concrete blocks and gravel and an open storage in the vicinity of the Site, they are either existing uses tolerated under the Town Planning Ordinance or are suspected UD's subject to enforcement action by the Planning Authority. While DAFC has no strong view on the application as part of the Site is already paved and covered with vegetation, CTP/UD&L, PlanD 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 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 the 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/ 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 Ten public comments were received objecting to the application mainly on 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 is not in line with the planning intention of "R(C)2" zone and will frustrate the planning intention of the area for road use. 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 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
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JANUARY 2018**