

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/718

- Applicant** : Mr. LAU Wing On represented by Mr. KWOK Chi Man
- Site** : Lot 466 (Part) in D.D. 83, Kwan Tei, Fanling, New Territories
- Site Area** : About 3,400 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Public Vehicle Park (Excluding Container Vehicle) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary public vehicle park (excluding container vehicle) for a period of three years on the application site (the Site) (**Plan A-1**). The Site is zoned “AGR” on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/17. According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within “AGR” zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use is not provided for under the Notes of the OZP. The Site is currently vacant.
- 1.2 According to the applicant, 63 parking spaces for private vehicles and/or light goods vehicles will be provided on the Site (**Drawing A-1**). The ingress/egress point is located adjacent to the east of the Site (**Plan A-2**). No structure will be erected on the Site. The car park operates all year round for local residents living in Kwan Tei Village. The Site is accessible via a local track to Sha Tau Kok Road – Lung Yeuk Tau (**Plan A-2**). A plan showing the layout of the public vehicle park is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:
- | | |
|---|----------------------|
| (a) Application form received by the Board on 25.10.2019 | (Appendix I) |
| (b) Supplementary Information received on 30.10.2019 | (Appendix Ia) |
| (c) Letter dated 4.12.2019 requesting for 1 st deferment of consideration of the application | (Appendix Ib) |

(d) Further Information received on 20.1.2020

(Appendix Ic)

- 1.4 At the request of the applicant (**Appendix Ib**), the Committee agreed on 13.12.2019 to defer making a decision on the application for two months pending the preparation of further information to address the departmental comments. The applicant submitted the further information (**Appendix Ic**) on 20.1.2020 and the application is re-scheduled for consideration by the Committee on 6.3.2020.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the application form and further information at **Appendices I, Ia and Ic** respectively. They can be summarised as follows:

- (a) the Site does not involve any Government land, and it is currently vacant without planned development. According to the Land Registry, the Site is under Block Government Lease (demised for agricultural use). Other than offensive trade, there is no restriction on the use;
- (b) the current application is the subject of a previous planning application (No. A/NE-LYT/711) withdrawn by the applicant on 27.9.2019. In response to departmental comments, the scale of development has been revised by reducing the site area and number of parking spaces from 6,300m² to 3,400 m² and from 126 to 63 respectively. No heavy goods vehicles are involved in the current application, the environmental and traffic impacts will be minimized;
- (c) to the east of the Site is Kwan Tei Village, the proposed vehicle park is to serve the parking need of the adjacent villagers, it is considered compatible to the surrounding area. In view of growing number of New Territories Exempted Houses, there is neither sufficient space for parking on pavement nor a regularized vehicle park provided in the area, the proposed development can alleviate the parking problem;
- (d) it is estimated that there is parking need of about 185 spaces in Kwai Tei Village. Excluding those areas in front of the village houses, which could enter for parking of about 50 vehicles, there are still in need of about 135 vehicle parking spaces for the villagers; and Kwai Tei Village is not well-served by public transport, the proposed development can cater for the parking demand in response to the need;
- (e) the proposed public vehicle park is to serve the nearby villagers 24 hours daily by providing legal parking spaces, improving traffic conditions and addressing the problem of illegal parking. The proposed use will not be commenced prior to obtaining the planning permission;
- (f) the proposed vehicular access would be routed through various private lots (i.e. Lots 467, 468, 469 and 482 in D.D. 83); the applicant has already obtain consent from the respective lot owners and he undertakes to manage and maintain the access road;
- (g) the proposed development would not generate significant traffic and environmental impacts on the surrounding areas. The proposed ingress/egress point is 8m in width which has sufficient space for manoeuvring;

- (h) there are similar approved planning applications in Yuen long and North District and there are 5 approved applications falls within the OZP. In particular, planning application No. A/NE-LYT/568 (**Plan A-1**) was approved in 2015 providing private car parking spaces in the vicinity of the Site, however, it could not meet the parking demand;
- (i) the Site is covered by scattered tree groups, which will be preserved for greening should the application be approved. Vegetation clearance will be carried out without paving so that the area can be used for future agricultural rehabilitation;
- (j) there would be no hard paving at the Site; and the lot owner has no intention to use the Site for agricultural use;
- (k) the Chairman and 1st Vice-Chairman of Fanling District Rural Committee (FDRC) have provided letters to support the application; and the applicant has submitted a letter enclosing 76 signatures from the villagers who supported the application;
- (l) the applicant undertakes good site practice so as not to pollute the watercourse to the south; and
- (m) the planning application is on a temporary basis, if the proposed development is not commenced to the satisfaction of Government departments in the future, the planning application can be revoked or ceased its renewal;

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

The applicant is not the “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending a notice to the FDRC and concerned lot owner(s). Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Application

There is no previous application for the Site.

5. Similar Application

- 5.1 There is one similar application within the same “AGR” zone on the Lung Yeuk Tau and Kwan Tei South area in the vicinity of the Site for temporary public vehicle park. Application No. A/NE-LYT/568 for 11 private vehicles parking spaces was approved with conditions in August 2015 mainly on the considerations that the development was not incompatible with the surrounding land uses; and the developments would unlikely cause any significant adverse impacts on the traffic, environment, drainage and landscape of the area. The planning permission was lapsed on 7.8.2018.
- 5.2 Regarding the similar approved applications (No. A/NE-LYT/689, 691, 704, 706 and 712) for temporary public vehicle park as quoted by the applicant (**Appendix Ic**), these applications fall within different “AGR” zone within the OZP as compared with the current application, and also locate further away from the Site. Moreover, these applications were approved in 2019 mainly on the grounds that the development was not incompatible with the surrounding land uses; and the developments would unlikely cause

any significant adverse impacts on the traffic, environment, drainage and landscape of the area.

5.3 Details of the similar application are at **Appendix II** and its location is shown on **Plan A-1**.

6. The Site and Its Surrounding Areas (Plans A-1 to A-3 and A-4)

6.1 The Site is:

- (a) mainly flat and covered with wild grass; and
- (b) accessible from Sha Tau Kok Road – Lung Yeuk Tau via a local track (**Plan A-2**).

6.2 The surrounding areas have the following characteristics:

- (a) the surrounding land uses are predominantly rural in character intermixed with village houses and active/fallow agricultural land;
- (b) to the immediate east and northeast are a public vehicle park under the application No. A/NE-LYT/568 and a pond (**Plan A-2**); to the further east is the village proper of Kwan Tei Village (**Plan A-2**);
- (c) to the immediate north are football field and Kwan Tei children’s playground; and to the immediate south is active/fallow agricultural land; and
- (d) to the west is vacant land with some wild grass.

7. Planning Intention

The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

8. Comments from Relevant Government Departments

8.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

8.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

the Site is an Old Schedule Lot held under Block Government Lease (demised for agricultural use) without any guaranteed right of access. The applicant should make his own arrangement, and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the proposed use.

Traffic

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

- (a) upon review of the further information as submitted by the applicant (**Appendix Ic**), he cannot render support to the application from the traffic engineering perspective unless the applicant could satisfactorily address his following comments:
 - (i) the applicant should substantiate the traffic generation and attraction from and to the site as quoted in the application;
 - (ii) the applicant should advise the traffic impact to the nearby road links and junctions under the worst case scenario, in particular the traffic impact to junction of the village access and Sha Tau Kok Road – Lung Yeuk Tau and the pedestrian crossing immediately next to the village access;
 - (iii) the applicant should advise the traffic management measure to ensure the road safety at the intersection point between the existing village access and the proposed vehicular access leading to the Site, near Kwai Tei Children’s Playground (**Plan A-2**); and
 - (iv) it is noted that the Site is not directly connected to Sha Tau Kok. The applicant shall advise the provision and management of pedestrian facilities to ensure pedestrian safety; and
- (b) the vehicular access between the Site and Sha Tau Kok Road is not managed by Transport Department.

8.1.3 Comments of the Chief Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

he has no comment on the application from highways viewpoint. The access road connecting the Site and Sha Tau Kok – Lung Yeuk Tau is not maintained by Highways Department.

Agriculture

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

- (a) upon review of the further information as submitted by the applicant (**Appendix Ic**), the application is not supported from agricultural point of view as the Site possesses potential for agricultural rehabilitation. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as open field cultivation, greenhouses, etc.; and
- (b) the watercourse is located at the south of the Site (**Plan A-2**), should the application be approved, the applicant should be reminded to implement good site practice so not to pollute the watercourse nearby.

Landscape Aspect

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

- (a) no objection to the application from the landscape planning perspective;
- (b) the Site is situated in an area of rural landscape character surrounded by village houses and vegetated area. The Site is mostly covered by wild grass/vegetation, no significant landscape resource is observed. Significant adverse impact on existing landscape resources arising from the application is not anticipated; and
- (c) the Site is set back from Sha Tau Kok Road – Lung Yeuk Tau, there is no major public frontage along the site boundary, should the Board approve the application, it is considered not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent.

Environment

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

- (a) there was no substantial environmental complaint against the Site during the past three years; and
- (b) it is noted that the Site will not involve parking of heavy goods vehicle nor container truck. Should the application be approved, the applicant should be reminded of his obligation to comply with all environmental protection/pollution control ordinances, in particular the Water Pollution Control Ordinance. The applicant should also follow the relevant mitigation measures and requirements in Notes to Annex I of the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses” and ProPECC PN 5/93.

Drainage

8.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) he has no objection to the application from the public drainage viewpoint;
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse impact to the adjacent area; and
- (c) the Site is in an area where no public sewerage connection is available.

Fire Safety

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

- (a) he has no in-principle objection to the application subject to fire service

installations being provided to the satisfaction of his department; and

- (b) the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

8.1.10 Comments of the Chief Building Surveyor/ New Territories West, Buildings Department (CBS/NTW, BD):

- (a) before any new building works are to be carried out on the Site, the prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the Buildings Ordinance (BO);
- (b) any temporary shelters or converted containers for storage/washroom/first-aid room/ site office are considered as temporary buildings are subject to control under Building (Planning) Regulations (B(P)Rs) Pt. VII;
- (c) the Site shall be provided with means of obtaining access thereto from a street under the B(P)R 5 and emergency vehicular access shall be provided under the B(P)R 41D;
- (d) if the Site is not abutting on a specified street having a width not less than 4.5m wide, the development intensity shall be determined under B(P)R 19(3) at the building plan submission stage; and
- (e) formal submission under the BO is required for any proposed new works, including any temporary structures. Detailed comments under BO will be provided at building plan submission stage.

District Officer's Comments

8.1.11 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

he has consulted the locals regarding the application. The Indigenous Inhabitant Representative (IIR) of Kwan Tei supports the application as the proposed development would alleviate illegal parking. The Fanling District Rural Committee Chairman, another IIR and Resident Representative (RR) of Kwan Tei, the North District Council Member of the subject constituency, and the IIR of Fu Tei Pai have no comment on the application.

8.2 The following Government departments have no comment on / no objection to the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (b) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD).

9. Public Comments Received During Statutory Publication Period

On 1.11.2019, the application was published for public inspection. During the statutory public inspection period, eleven public comments from the Chairman of Sheung Shui District Rural Committee (SSDRC), a North District Council (NDC) member, three villagers, a Group of Concerned Villagers, Kadoorie Farm and Botanic Garden Corporation, the Hong Kong Bird Watching Society, Designing Hong Kong and two individuals were received (**Appendix III**). The Chairman of SSDRC and a NDC member indicate no comment on the application. The remaining nine public comments object to the application mainly on the grounds that the proposed development will overstrain the traffic capacity of area, threaten residents' safety using the nearby children's playground and football field as well as pedestrian safety; the ambulance and emergency vehicular access will be blocked and thus affect the efficiency of rescue; the proposed development will cause adverse ecological, environmental and drainage impacts to the surrounding areas; the proposed development is not in line with the planning intention of "AGR" zone; and approval of application will set an undesirable precedent to the future similar applications within the "AGR" zone.

10. Planning Considerations and Assessments

10.1 The application is for a proposed temporary public vehicle park (excluding container vehicle) for a period of 3 years on a Site falling entirely within "AGR" zone on the OZP. The proposed vehicle park is not in line with the planning intention of the "AGR" zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. As the Site possesses potential for agricultural rehabilitation, DAFC does not support the application from the agricultural development point of view. There are no strong justifications in the submission to justify a departure from the planning application of the "AGR" zone, even on a temporary basis.

10.2 The Site is currently vacant and largely covered by vegetation. It is located to the west of Kwan Tei Village near the existing village proper and surrounded mostly by village houses, active/fallow farmland and vacant land (**Plan A-2**). The proposed temporary public vehicle park is considered not entirely incompatible with the surrounding area where village houses and active/fallow agricultural land can be found (**Plan A-3**). Since significant adverse impact on existing landscape resources arising from the proposed development is not anticipated, CTP/UD&L, PlanD has no objection to the application from landscape planning perspective.

10.3 C for T does not support the application from the traffic engineering viewpoint as the applicant fails to demonstrate in the submission that the temporary public vehicle park will not cause adverse traffic impact on the surrounding areas in that the applicant has not satisfactorily addressed his comments on the aspects of traffic generation/attraction from and to the Site, traffic impact to the nearby junctions and pedestrian crossing, and the provision of traffic and pedestrian safety measures. DEP has no objection to the application as the Site will not involve parking of heavy goods vehicle nor container truck, but advises that the applicant should follow the latest "Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses" to minimize any potential environmental impacts to the nearby residents. Other Government departments consulted, including CE/M of DSD, CE/C of WSD and D of FS, have no adverse comment on or no objection to the application.

10.4 There is one similar application within the same "AGR" zone to the east of the Site. The

application was approved by the Committee in 2015 (**Plan A-1**) mainly on the considerations that the development was not incompatible with the surrounding land uses; and the development would unlikely cause any significant adverse impacts on the traffic, environment, drainage and landscape of the area. As the applicant fails to demonstrate no adverse traffic impact on the area, the circumstances of the current application are different from the approved similar application.

10.5 Regarding the adverse public comments objecting to the application as detailed in paragraph 9 above, Government departments' comments and planning assessment above are relevant.

11. Planning Department's Views

11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments mentioned in paragraph 9, 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 the "AGR" zone which is to retain primarily and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission to justify a departure from the planning intention, even on a temporary basis; and
- (b) the applicant fails to demonstrate in the submission that the development would not cause adverse traffic impact on the surrounding areas.

11.2 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 6.3.2023. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no vehicle without valid licence issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (b) only private car and light goods vehicles as defined in the Road Traffic Ordinance is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) a notice should be posted at a prominent location of the Site to indicate that only private car and light goods vehicles, as defined the Road Traffic Ordinance is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) the provision of periphery fencing on the Site within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 6.9.2020;

- (e) 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 6.9.2020;
- (f) in relation to (e) above, the provision of drainage facilities 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 6.12.2020;
- (g) the submission of proposals for water supplies for firefighting and fire service installations 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 6.9.2020;
- (h) in relation to (g) above, the provision of water supplies for firefighting and fire service installations 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 6.12.2020;
- (i) the submission of traffic review within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 6.9.2020;
- (j) in relation to (i) above, the implementation of traffic mitigation measures identified therein within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 6.12.2020;
- (k) if any of the above planning conditions (a), (b) or (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;
- (l) if any of the above planning conditions (d), (e), (f), (g), (h), (i) or (j) is not complied with by the 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 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

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

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 12.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

13. Attachments

Appendix I	Application form with attachments received on 25.10.2019
Appendix Ia	Supplementary Information submitted on 30.10.2019
Appendix Ib	Letter dated 4.12.2019 requesting for 1 st deferment of consideration of the application
Appendix Ic	Further Information received on 20.1.2020
Appendix II	Similar s.16 Application within the same “AGR” zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area
Appendix III	Public Comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2020**