

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

**APPLICATION NO. A/NE-LYT/647**

<b><u>Applicants</u></b>	Messrs. LI Wai, LI Kwong Hing and LEE Kwong Lai
<b><u>Site</u></b>	Lot 596 in D.D. 83, Kwan Tei Tsuen, Fanling, New Territories
<b><u>Site Area</u></b>	About 604 m <sup>2</sup>
<b><u>Lease</u></b>	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
<b><u>Zoning</u></b>	“Village Type Development” (“V”)
<b><u>Application</u></b>	Proposed Temporary Private Vehicle Park for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicants seek planning permission for a proposed temporary private vehicle park for a period of three years at the application site (the Site) (**Plan A-1**). The Site is zoned “V” 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 not exceeding a period of three years within “V” zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use is not provided for in terms of the Plan.
- 1.2 According to the applicants’ submission, there will be 12 parking spaces for private cars within the Site (**Drawing A-1**). No structure or kiosk will be erected on the Site. Six parking spaces will be used by the applicants and the remaining six will be rented out. The proposed vehicle park will operate 24 hours a day. The Site is accessible via a village road leading to Sha Tau Kok Road – Lung Yeuk Tau (**Plan A-2**). The site location plan and site layout plan submitted by the applicant are at **Drawings A-1 and A-2** respectively.
- 1.3 In support of the application, the applicants have submitted the following documents:
  - (a) Application Form with attachments received on 21.3.2018 (**Appendix I**)
  - (b) Supplementary Information received on 26.3.2018 (**Appendix Ia**)
  - (c) Letter dated 9.5.2018 requesting for deferment of consideration of the application (**Appendix Ib**)
  - (d) Further Information received on 7.6.2018 (**Appendix Ic**)

1.4 At the request of the applicant, the Rural and New Town Planning Committee (the Committee) of the Board agreed on 18.5.2018 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 on 7.6.2018 and the application is re-scheduled for consideration by the Committee on 3.8.2018.

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

The justifications put forth by the applicants in support of the application are detailed in Part 9 of the application form at **Appendix Ia** and Further Information at **Appendix Ic**. They can be summarised as follows:

- (a) six parking spaces will be used by the applicants and the remaining six will be rented out;
- (b) vehicles are parked on village access roads causing traffic congestion. Approval of the temporary private vehicle park can relieve the situation;
- (c) there is enough space within the Site since two vehicles will only be parked in the proposed vehicle park during holidays, hence no vehicle will queue outside the Site; and
- (d) there is no obstacle blocking the view of drivers when they leave the Site and thus there is no concern of pedestrian safety.

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

The applicants are the sole “current land owners” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

## **4. Background**

The Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD) advised that the Site was involved in an enforcement case in relation to parking of vehicles. As the unauthorised development has been discontinued, a Compliance Notice (CN) was issued on 9.5.2018.

## **5. Previous Application**

There is no previous application for the Site.

## **6. Similar Application**

There is no similar application for temporary private vehicle park in the “V” zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area.

## **7. The Site and Its Surrounding Areas (Plans A-1 to A-3, A-4a and A-4b)**

7.1 The Site:

- (a) is mainly flat, paved, fenced off and vacant;

- (b) is accessible from Sha Tau Kok Road – Lung Yeuk Tau via a village road (**Plan A-2**); and
- (c) has a vacant temporary structure at the northern part of the Site (**Plans A-2 and A-4b**).

7.2 The Site is situated within Kwan Tei Tsuen with village houses to the north, south and west, and active/fallow agricultural land, temporary domestic structures and a vacant school to its southeast and east.

## **8. Planning Intention**

The planning intention of the “V” zone in the Lung Yeuk Tau and Kwan Tei South area 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.

## **9. Comments from Relevant Government Departments**

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

### **Land Administration**

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

- (a) he has no comment on the application from Small House Policy point of view. No Small House application relating to the Site has been received by his Office;
- (b) the Site comprises of private lot which is an Old Schedule Lot held under Block Government Lease (demised for agricultural use) without any guaranteed right of vehicular access;
- (c) a structure is erected on the Site. The aforesaid structure is not acceptable under the lease concerned. His office reserves the rights to take necessary lease enforcement action against the irregularity; and
- (d) should the application be approved, the owner of the lot shall apply to his office for a Short Term Waiver (STW) to cover the said unauthorised structure on site. The application for STW will be considered by Government in its landlord’s capacity and there is no guarantee that it will be approved. If the STW is approved, its commencement date will be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fee as considered appropriate by his office.

### **Traffic**

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

based on the Further Information submitted by the applicant (**Appendix Ic**), she has no further comment from traffic engineering point of view.

### **Environment**

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

- (a) it is noted that the Site will not involve parking of heavy goods vehicle and container truck. The applicants are advised to follow the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses” issued by DEP; and
- (b) there was no environmental complaint against the Site in the past three years.

### **Drainage**

#### 9.1.4 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 applicants 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.

### **Building Matters**

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

- (a) there is no record of approval of the Building Authority (BA) for the buildings/structures existing at the Site and BD is not in a position to offer comments on their structural stability and suitability for any usage notwithstanding the applicants have no intention to use the buildings/structures;
- (b) 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 BA should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorised Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO);
- (c) for UBW erected on leased land, enforcement action may be taken by the BA 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;

- (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 Building (Planning) Regulations (B(P)Rs) respectively;
- (e) if the Site is not abutting on a specified street having a width not less than 4.5m, the development intensity shall be determined under Regulation 19(3) of the B(P)Rs at the building plan submission stage.

### **Nature Conservation**

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

the Site has been paved and disturbed. In this connection, he has no comment on the application from nature conservation point of view.

### **Fire Safety**

9.1.7 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 and water supplies for fire-fighting being provided to the satisfaction of his department; and
- (b) detailed fire safety requirements will be formulated upon receipt of formal submission of the general building plans.

### **Water Supply**

9.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) he has no objection to the application;
- (b) existing water mains are inside the Site and will be affected (**Plan A-2**). The applicants are required to either divert or protect the water mains found on site;
- (c) if diversion is required, existing water mains inside the Site are needed to be diverted outside the site boundary to lie in Government land. A strip of land of minimum 1.5m in width should be provided for the diversion of existing water mains. The cost of diversion of existing water mains upon request will have to be borne by the grantees/applicants; and the applicants shall submit all the relevant proposal to WSD for consideration and agreement before the works commence; and
- (d) if diversion is not required, the following conditions shall apply:
  - (i) existing water mains are affected as indicated on **Plan A-2** and no development which requires resiting of water mains will be allowed;
  - (ii) details of site formation works shall be submitted to Director of Water Supplies (DWS) for approval prior to commencement of works;

- (iii) no structures shall be built or materials stored within 1.5m from the centreline of water mains. Free access shall be made available at all times for staff of the DWS or their contractor to carry out construction, inspection, operation, maintenance and repair works;
- (iv) no trees or shrubs with penetrating roots may be planted within the Water Works Reserve or in the vicinity of the water mains. No change of existing site condition may be undertaken within the aforesaid area without the prior agreement of the DWS. Rigid root barriers may be required if the clear distance between the proposed tree and the pipe is 2.5m or less, and the barrier must extend below the invert level of the pipe;
- (v) no planting or obstruction of any kind except turfing shall be permitted within the space of 1.5m around the cover of any valve or within a distance of 1m from any hydrant outlet; and
- (vi) tree planting may be prohibited in the event that the DWS considers that there is any likelihood of damage being caused to water mains.

#### **District Officer's Comments**

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

he has consulted the locals regarding the application. The Chairman of Fanling District Rural Committee (FDRC), the North District Council (NDC) member of the subject constituency, the Indigenous Inhabitant Representative and Resident Representative of Kwan Tei have no comment on the application.

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

- (a) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (b) Chief Highway Engineer/New Territories East, Highways Department; and
- (c) Project Manager (North Development Office), Civil Engineering and Development Department.

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

On 6.4.2018, the application was published for public inspection. During the statutory public inspection period, four public comments were received (**Appendix II**). A NDC member supports the application as it can provide convenience to the villagers whereas the Chairmen of FDRC and Sheung Shui District Rural Committee indicate no comment on the application. An individual objects to the application mainly on the considerations that the proposed private car park is not in line with the planning intention of "V" zone; the Site should be used for residential development; parking facilities should be accommodated in high rise buildings; and approval of the application would set an undesirable precedent for similar applications in the area.

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

11.1 The Site falls within an area zoned "V" on the Lung Yeuk Tau and Kwan Tei South OZP.

Whilst the applied use is not totally in line with the planning intention of the “V” zone, which is intended for development of Small Houses by indigenous villagers, it is noted that the proposed temporary private car park is to serve the residents of the village. According to DLO/N of LandsD, no Small House application has been received for the Site. There are still sufficient land (about 2.89 ha or equivalent to 115 Small House sites) available within the “V” zone to meet the outstanding 50 Small House applications in Kwan Tei Tsuen. Approval of the application on a temporary basis for a period of three years would not frustrate the planning intention of the “V” zone. DLO/N of LandsD has no comment on the application from Small House Policy point of view.

- 11.2 The proposed temporary private car park under application will provide a total of 12 private car parking spaces (**Drawing A-2**). The Site is located in a village surrounded mostly by village houses, active/fallow agricultural land and temporary domestic structures (**Plan A-2**). The development is considered not entirely incompatible with the surrounding rural setting (**Plans A-2 and A-3**). DAFC and CTP/UD&L, PlanD have no comment on the application.
- 11.3 Noting that the Site will not involve parking of heavy goods vehicle and container truck, DEP has no adverse comment on the application and advises that the applicants should be advised to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any environmental nuisances. To ensure that the temporary private car park would not degrade the environmental quality of the rural surroundings, approval conditions requiring only private vehicle is allowed to be parked on the Site; no workshop activity is permitted on the Site and reinstatement of the Site upon expiry of planning permission are also recommended (paragraph 12.2 below). Other Government departments consulted, including C for T, CE/MN of DSD, CE/C of WSD and D of FS, have no adverse comment on or no objection to the application.
- 11.4 Regarding the adverse public comments mainly on being not in line with the planning intention, the suitable land use, and setting of undesirable precedent, government departments’ comments and planning assessment above are relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers the temporary private vehicle park under the application could be tolerated for a period of 3 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 3.8.2021. 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 vehicle as defined in the Road Traffic Ordinance is allowed to be parked or enter/exit the Site at any time during the planning approval period;

- (c) no car washing/fuelling, vehicle repair, dismantling, paint spraying or other workshop activities is allowed on the Site at any time during the planning approval period;
- (d) the boundary fence on the Site should be maintained at all times during the planning approval period;
- (e) the submission of 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 3.2.2019;
- (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 3.5.2019;
- (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 3.2.2019;
- (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 3.5.2019;
- (i) if any of the above planning conditions (a), (b), (c) or (d) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (j) if any of the above planning conditions (e), (f), (g) or (h) 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.

#### Advisory Clauses

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

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

### **13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 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.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

**14. Attachments**

<b>Appendix I</b>	Application Form with Attachments received on 21.3.2018
<b>Appendix Ia</b>	Supplementary Information received on 26.3.2018
<b>Appendix Ib</b>	Letter dated 9.5.2018 requesting for deferment of consideration of the application
<b>Appendix Ic</b>	Further Information received on 7.6.2018
<b>Appendix II</b>	Public Comments
<b>Appendix III</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Site Location Plan
<b>Drawing A-2</b>	Site Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
AUGUST 2018**