

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

**APPLICATION NO. A/NE-LYT/704**

- Applicants** : Messrs.TANG Tim Chee, TANG Chu Tin and TANG Wai Sum represented by Fotton ELA Architects Ltd.
- Site** : Lots 1571 (Part) and 1572 (Part) in D.D. 83, Lung Yeuk Tau, New Territories
- Site Area** : 880 m<sup>2</sup> (about)
- Land Status** : 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** : Temporary Public Vehicle Park for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicants seek planning permission to use the application site (the Site) for temporary public vehicle park for a period of three years. The Site falls within an area zoned “AGR” on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/17 (**Plans A-1 and A-2**). According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within the “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 used for the applied use without valid planning permission.
- 1.2 According to the applicants’ submission, there are 19 parking spaces (5m x 2.5m each) for private vehicles and 5 parking spaces (2.4m x 1m each) for motorcycles within the Site (**Drawing A-1**). No structure or kiosk is provided on the Site. The car park operates on a monthly rental basis for local residents and operates 24 hours a day. The Site is accessible via a local track to Sha Tau Kok Road – Lung Yeuk Tau (**Plan A-1**). The applicants estimate that daily vehicle trips made by motorcycles and private cars are 11 and 57 during weekdays, and 10 and 45 during weekends and public holidays respectively. Plan showing the site layout is at **Drawing A-1**.
- 1.3 The Site is the subject of two previous applications (No. A/NE-LYT/577 and 598)

submitted by the same applicants for the same use. Application No. A/NE-LYT/577 for 13 private car parking spaces was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 20.11.2015 for a period of three years. Application No. A/NE-LYT/598 for 17 private car parking spaces and 5 motorcycle parking spaces was approved with conditions by the Committee on 29.7.2016 for a period of three years up to 29.7.2019. The applicants have complied with all approval conditions of the last approved application. The development scheme submitted under the current application is slightly different as compared to the last previous application No. A/NE-LYT/598 mainly involving a minor increase in site area from about 802 m<sup>2</sup> to about 880 m<sup>2</sup> (i.e. 78 m<sup>2</sup>) with 2 additional private car parking spaces (i.e. from 17 to 19) to be provided at the southern portion of the Site and adjacent to the southern entrance (**Drawing A-1**). No structure or kiosk is erected on the Site.

- 1.4 In support of the application, the applicants have submitted the application form with attachments received on 20.6.2019 (**Appendix I**).

## **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 I**. They can be summarized as follows:

- (a) the previous application No. A/NE-LYT/598 at the Site for the same use was approved by the Board;
- (b) a number of illegal /non-designated roadside parking can be found along Sui Wan Road (**Plan A-2**), and nearby areas due to an increasing number of New Territories Exempted Houses, provision of private vehicle park could meet the parking demand; and
- (c) the proposed 2 more additional private vehicle parking spaces as compared with the previous approval could relieve the illegal/roadside parking problem.

## **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) advises that the Site is not subject to any active enforcement case. There is no record of previous enforcement action involving the Site.

## **5. Previous Applications**

- 5.1 The Site is the subject of two previous applications (No. A/NE-LYT/577 and 598) which were submitted by the same applicants for the same use with different

numbers of car parking spaces for private cars and motorcycles, were approved with conditions by the Committee on 20.11.2015 and 29.7.2016 respectively for a period of three years mainly on the considerations that the temporary development was not incompatible with the surrounding area; adverse impacts arising from the development were not anticipated; and concerned Government departments had no adverse comment on the application. The planning permission granted under application No. A/NE-LYT/577 was subsequently revoked on 20.9.2016 due to non-compliance of approval conditions in relation to submission of landscape proposal, implementation of landscape proposal and provision of drainage facilities. The applicants of the last previous application No. A/NE-LYT/598 for 17 private car parking spaces and 5 motorcycles parking spaces have complied with all approval conditions. The planning permission lapsed on 30.7.2019.

- 5.2 The development scheme submitted under the current application is slightly different as compared to the last previous application No. A/NE-LYT/598. The site area slightly increases from about 802 m<sup>2</sup> to about 880 m<sup>2</sup> (i.e. 78 m<sup>2</sup>) with 2 additional private car parking spaces provided at the southern portion of the Site and adjacent to the southern entrance (**Drawing A-1**). No structure or kiosk is erected on the Site.
- 5.3 Details of the previous applications are summarized at **Appendix II** and the location is shown on **Plan A-1**.

## 6. Similar Applications

- 6.1 In the past 10 years, there are five similar applications involving three sites for temporary public vehicle park within the “AGR” zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area.
- 6.2 Three similar applications (No. A/NE-LYT/462, 560 and 662) involving the same site for temporary public vehicle park for private cars and light goods vehicles/renewal of the same applied use were approved with conditions by the Committee between 2012 and 2018 mainly on the considerations that the developments were not incompatible with the surrounding land uses; the developments would unlikely cause any significant adverse impacts on the traffic, environment, drainage and landscape of the area; there were previous planning approvals granted on the site for the same use and the applicants had complied with all approval conditions; and there was no adverse comment from concerned departments.
- 6.3 The other two similar applications No. A/NE-LYT/568 and 689, located near Kwan Tei Village and to the immediate south of the Site respectively, were approved by the Committee between 2015 and May 2019 mainly on the similar grounds as the three approved similar applications mentioned in paragraph 6.2 above.
- 6.4 Details of these similar applications are at **Appendix III** and their locations are shown on **Plan A-1**.

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

- 7.1 The Site is:

- (a) mainly flat, paved, fenced off and being used as a car park; and
- (b) accessible from Sha Tau Kok Road – Lung Yeuk Tau via a local track (**Plan A-1**).

7.2 The surrounding areas have the following characteristics:

- (a) situated at the fringe of a village development with mostly village houses to the west and south, and active/fallow agricultural land and plant nurseries to its north and east intermixed with some vacant land and temporary structures (**Plan A-2**);
- (b) to the west and southwest are mostly village houses which is the village proper of Wing Ning Tsuen (**Plan A-1**); and
- (c) to the south is a car park under application (No. A/NE-LYT/689) (**Plan A-2**) approved by the Committee in May 2019.

## **8. Planning Intention**

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

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

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

### **Land Administration**

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

- (a) the lots under application are Old Schedule Lots held under Block Government Lease (demised for agricultural use) without any guaranteed right of vehicular access; and
- (b) the applicants should make their own arrangement for acquiring access. The Government shall accept no responsibility in such arrangement, and there is no guarantee that any adjoining Government land will be allowed for the vehicle access of the applied use.

### **Traffic**

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

- (a) the Site is a subject of a previous approved planning application No.

A/NE-LYT/598 for the same use involving 17 private vehicles and 5 motorcycles, 2 additional parking spaces are provided under this current application;

- (b) the traffic impact generated by 2 additional parking spaces is minimal, he has no in-principle objection to the application from the traffic engineering point of view to continue its similar use on the Site; and
- (c) the proposed access between the Site and Sha Tau Kok Road – Lung Yeuk Tau (**Plan A-1**) is not managed by the Transport Department. The applicants should seek comment from the responsible party.

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

- (a) he has no comment on the application from the highways viewpoint; and
- (b) the vehicular access leading from Sha Tau Kok Road – Lung Yeuk Tau to the Site is not maintained by HyD.

### **Environment**

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

- (a) it is noted that the Site will not involve parking of heavy goods vehicle nor 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) no environmental complaint related to the Site was received for the past three years.

### **Landscape**

9.1.5 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 point of view;
- (b) the Site is situated in an area of rural landscape character surrounded by village houses and car parks. The Site is hard paved and in operation, no landscape resource is observed within the Site. Significant adverse impact on existing landscape resources arising from the application is not anticipated; and
- (c) since 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.

### **Drainage**

9.1.6 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**

9.1.7 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)R) 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)R19(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.

### **Fire Safety**

#### 9.1.8 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 applicants are reminded that if the proposed structure(s) is required to comply with the Building Ordinance (Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Agriculture**

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

the Site is currently a cemented car park. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Site can still be used for agricultural activities such as greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.

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

#### 9.1.10 Comment of the District Officer (North), Home Affairs Department (DO(N), HAD):

he has consulted the locals regarding the application. The incumbent North District Council (NDC) member of the subject constituency cum the Indigenous Inhabitant Representative (IIR) of Lung Yeuk Tau and one of the three IIRs support the application for the reason that the proposed use can meet the increasing parking demand. The First Vice-Chairman and the Vice-Chairman of Fanling District Rural Committee object to the application on the grounds of adverse traffic impact on the surrounding areas and occupation of private lots for the development. The remaining IIR and Resident Representative (RR) of Lung Yek Tau have no comment on the application.

#### 9.2 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).

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

On 28.6.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, six public comments on the application were received from the Chairman of Sheung Shui District Rural Committee, three individuals, the First Vice-Chairman and the Vice-Chairman of Fanling District Rural Committee (**Appendix IV**). The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. An individual supports the application as the proposed use can cater for people in need. The remaining four comments object to the application mainly on the grounds that an increase of traffic flow resulting from the proposed use would aggregate the existing traffic condition, which lead to more traffic accidents and affect the road safety; there are still available parking spaces in the vicinity of the Site, the adjacent land is private lot, which might cause right of way issue and the operation of car park would generate noise and air pollutions to the surrounding villages.

**11. Planning Considerations and Assessments**

- 11.1 The application is for a temporary public vehicle park for a period of three years at the Site falling within an area zoned “AGR”. The development 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. DAFC does not support the application from the agricultural development point of view. Nevertheless, given its temporary nature and small in scale, it is considered that the approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “AGR” zone.
- 11.2 The temporary public vehicle park is considered not incompatible with the surrounding rural setting where village houses, active/fallow agricultural land, plant nurseries and car park can be found (**Plan A-2**). 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.
- 11.3 After considering the estimated daily vehicle trips to / from the Site provided in the submission, C for T considers the traffic impact generated from the proposed use is minimal. As such, he has no objection to the application from traffic engineering point of view. Noting that there will not involve parking of heavy vehicle and container truck, DEP has no objection to the application, but advises that the applicants 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 should the application be approved by the Board. Other government departments consulted, including CE/MN, DSD, D of FS and CE/C, WSD, have no adverse comment on or no objection to the application.
- 11.4 The Site is the subject of two previous applications (No. A/NE-LYT/577 and 598) for the same temporary use submitted by the same applicants which were approved with conditions by the Committee on 20.11.2015 and 29.7.2016 respectively. All the approval conditions for the last approved application have been complied with and the planning permission lapsed on 30.7.2019. Compared with the previously approved scheme (No. A/NE-LYT/598), the development scheme under the current application is slightly different in terms of site area for provision of two additional private car



parking spaces to cater for an increasing parking demand as submitted by the applicants.

- 11.5 There are five similar applications involving three sites for temporary vehicle park within the “AGR” zone in the vicinity of the Site (**Plan A-2**). Three similar applications (No. A/NE-LYT/462, 560 and 662) involving the same site were approved with conditions by the Committee between 2012 and 2018 mainly on the considerations that the developments were not incompatible with the surrounding land uses; the developments would unlikely cause any significant adverse impacts; there were previous planning approvals granted on the site for the same use and the applicants had complied with all approval conditions; and there was no adverse comment from concerned departments. The remaining two applications (No. A/NE-LYT/568 and 689), located near Kwan Tei Village and to the immediate south of the Site respectively, were approved by the Committee between 2015 and May 2019 (**Plan A-1**) mainly on the similar grounds as the three other approved similar applications mentioned above. There has not been major change in planning circumstances since the approval of the previous and similar applications.
- 11.6 Two supporting local comments conveyed by DO(N), HAD in paragraph 9 above are noted. As for the adverse public comments objecting to the application mainly on the grounds that the increase of traffic flow from the development would aggregate the existing traffic condition and generation of noise and air pollutions as detailed in paragraph 10 above, the Government department’s comments and the planning assessment above are relevant.

## 12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers that the temporary use under 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 16.8.2022. 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 the Site at any time during the planning approval period;
- (b) only private car and motorcycle 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 motorcycle 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;
- (d) no car washing, vehicle repair, dismantling, paint spraying or other workshop activities is allowed on the Site at any time during the planning approval period;

- (e) the boundary fence on the Site should be maintained at all times during the planning approval period;
- (f) the submission of drainage proposal 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 16.2.2020;
- (g) in relation to (f) above, the provision of drainage facilities 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 16.5.2020;
- (h) the submission of proposals for water supplies for fire-fighting 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 16.2.2020;
- (i) in relation to (h) above, the provision of water supplies for fire-fighting 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 16.5.2020;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (e) 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;
- (k) if any of the above planning conditions (f), (g), (h) or (i) 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
- (l) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

#### Advisory Clauses

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

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the development is not in line with the planning intention of the "Agriculture" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification to merit a departure from the planning intention, even on a temporary basis.

### **13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning 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 applicant.

**14. Attachments**

<b>Appendix I</b>	Application form with attachments received on 20.6.2019
<b>Appendix II</b>	Previous s.16 Applications
<b>Appendix III</b>	Similar s.16 Applications within “AGR” zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area
<b>Appendix IV</b>	Public Comments
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	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 &amp; A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
AUGUST 2019**