

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/689

<u>Applicants</u>	TANG Kam Wing, TANG Chan Keung, TANG Kwok Hing, TANG Tim Chee, LAI Tak Man, MO Cairong, LEUNG Chui Ying represented by Fotton ELA Architects Ltd.
<u>Site</u>	Lots 1578 (Part), 1584 S.I to 1584 S.Q, 1584 S.R (Part), 1584 S.S and 1584 RP (Part) in D.D. 83, Lung Yeuk Tau, New Territories
<u>Site Area</u>	About 980 m ²
<u>Lease</u>	(a) Block Government Lease (demised for agricultural use); (b) Modification of Tenancy (MOT) No. 37811 for erection of temporary structures for the purpose of domestic, kitchen and shade for Lot 1584 in D.D. 83; (c) Letter of Approval (L of A) No. 4790 for erection of temporary structures for Lot 1584 in D.D. 83.
<u>Plan</u>	Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
<u>Zoning</u>	“Agriculture” (“AGR”)
<u>Application</u>	Temporary Vehicle Park (Private Car and Motorcycle) for a Period of 3 Years

1. The Proposal

- 1.1 The applicants seek planning permission to use the application site (the Site) for a temporary vehicle park (private car and motorcycle) for a period of three years (**Plan A-1**). The Site falls within an area 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 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 in terms of the Plan. The Site is currently used for the applied use without valid planning permission.
- 1.2 According to the applicants’ submission, there are 23 parking spaces for private cars and 3 parking spaces for motorcycle within the Site (**Drawing A-1**). The northern portion of the Site (i.e. Lots 1578 (Part) and 1584 RP (Part) in D.D 83) is assigned for public vehicle park use including 15 private car parking spaces and 2 motorcycle parking spaces. The southern portion of the Site (i.e. Lots 1584 S.I to S.Q, 1584 S.R (Part), 1584 S.S and 1584 RP (Part))

including 8 private car parking spaces and 1 motorcycle parking space is reserved for the residents of the adjoining housing development. There is a gate separating the two portions. No structure or kiosk will be erected on the Site. The operation hours of the temporary vehicle park are 24 hours per day and on a monthly rental basis. The Site is accessible via a local track leading to Sha Tau Kok Road – Lung Yeuk Tau (**Plan A-2**). The applicants estimate that there are 61 and 43 daily trips made by private cars to/from the Site on weekdays and during the weekends/public holidays respectively; 7 and 10 daily trips made by motorcycle to/from the Site on weekdays and during the weekends/public holidays respectively. The site layout plan submitted by the applicants is at **Drawing A-1**.

1.3 In support of the application, the applicants have submitted the following documents:

- (a) Application form with attachments received on 5.3.2019 (**Appendix I**)
- (b) Supplementary Information received on 7.3.2019 (**Appendix Ia**)
- (c) Further Information received on 8.4.2019 (**Appendix Ib**)
- (d) Further Information received on 17.4.2019 (**Appendix Ic**)
- (e) Further Information received on 18.4.2019 (**Appendix Id**)

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** and Further Information at **Appendices Ic and Id**. They can be summarised as follows:

- (a) part of the Site (i.e. Lots 1578 (Part) and 1584 RP (Part) in D.D 83) is assigned for public vehicle park and the remaining part of the Site (i.e. Lots 1584 S.I to S.Q, 1584 S.R (Part), 1584 S.S and 1584 RP (Part)) is reserved for the residents of the adjoining housing development;
- (b) there is an electric gate within the Site to separate two parts of the Site. No structure or kiosk will be erected on the Site; and
- (c) there is an increase in housing development in the vicinity of the Site, the approval of the application would help relieve the parking problem in the area and have positive impact to the traffic condition in the area by reducing the number of illegal roadside parking.

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 subject to two enforcement actions (No. E/NE-LYT/222 and E/NE-LYT/223). Enforcement Notices against use for place for parking of vehicles were issued on 15.1.2019 to require the concerned parties to discontinue the unauthorised development by 15.4.2019. Site inspection was carried out on 17.4.2019, and it was found that the unauthorized developments were discontinued. Her office will continue to monitor the Site according to the established practice and procedure.

5. Previous Application

There is no previous application for the Site.

6. Similar Applications

- 6.1 In the past 10 years, there are six similar applications (No. A/NE-LYT/394, 462, 560, 577, 598 and 662) involving two sites 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 and related use(s).
- 6.2 All applications were approved with conditions by the Committee between 2009 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. Application No. A/NE-LYT/577 was subsequently revoked on 20.9.2016 due to non-compliance with an approval condition on submission of landscape proposal.
- 6.3 Details of these similar applications are summarised at **Appendix II** and the location is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) hard paved, partially fenced off, and currently used for the applied use without valid planning approval; 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) the surrounding land uses are predominantly rural in character intermixed with village houses, vacant land and active/fallow agricultural land;
- (b) to the immediate north across the village road are temporary structures and a car park under application No. A/NE-LYT/598;
- (c) to the immediate west is an area of parking of vehicle; and
- (d) to the west and south are village houses of Tung Kok Wai and Wing Ning Tsuen.

8. Planning Intention

The planning intention of the “AGR” zone in the Lung Yeuk Tau and Kwan Tei South area is intended 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 summarised as follows:

Land Administration

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

- (a) the Site comprises Old Schedule lots held under Block Government Lease (demised for agricultural use) without any guaranteed right of vehicular access. 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 vehicular access of the applied use; and
- (b) except for the free standing walls, there is no structure on the Site at the time of inspection. Modification of tenancy (MOT) No. 37811 was issued to allow the erection of 3 temporary structures on Lot 1584 in D.D. 83 for the purposes of domestics, kitchen and shade. Letter of Approval (L of A) No. 4790 was issued for the erection of temporary structures on Lot 1584 in D.D. 83. Applications for cancellation of the MOT and L of A to make way for Short Term Waiver (STW) application may be required if the planning application is approved. The STW application 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):

- (a) having reviewed the further information submitted by the applicants (**Appendices Ic and Id**), she has no further comment and no objection to the application; and
- (b) it is noted that the village track between Sha Tau Kok Road – Lung Yeuk Tau and the Site is not managed by the Transport Department. The applicants shall sought agreement/comment from the responsible party for the management and maintenance measures to be implemented for the village track.

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, he has no objection to the application. 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.

Landscape

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

- (a) she has no objection to the application from the landscape planning perspective;
- (b) according to the aerial photo of 2018, the Site is located in an area of rural landscape character, surrounded by village houses, temporary structures and patches of hard paved areas for car parking. The Site is hard paved with no existing vegetation. A vehicle park is observed in close vicinity to the north of the Site. The applied use is considered not incompatible with the surrounding environment and significant adverse impact arising from the proposed development is not anticipated; and
- (c) since there is no major public frontage along the site boundary, it is considered not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.

Drainage

9.1.5 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.

Agriculture

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

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 greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural 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 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.

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; and
- (b) for provision of water supply to the development, the applicants may need to extend the inside services to the nearest suitable Government water mains for connection. The applicants shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

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 North District Council (NDC) Member of the subject constituency cum the Indigenous Inhabitant Representative (IIR) of Lung Yeuk Tau and another IIR of Lung Yeuk Tau support the application mainly on the grounds that there is an increase in local demand for parking and approval of the application would help relieve the parking problem in the area and have positive impact to the traffic condition in the area. The Vice-Chairman of Fanling District Rural Committee (FDRC) objects to the application since there is no public road leading to the Site and air pollution could be caused by the motorcycle. The remaining IIR and Resident Representative (RR) of Lung Yeuk Tau have no comment on the application.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department; and
- (b) Project Manager (North Development Office), Civil Engineering and Development Department.

10. Public Comments Received During Statutory Publication Period

On 12.3.2019, the application was published for public inspection. During the statutory public inspection period, eight public comments were received (**Appendix III**). A NDC Member supports the application as it can provide convenience to the villagers whereas the Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The Vice-Chairmen of the Fanling District Rural Committee and Hong Kong Bird Watching Society objects to the application mainly on the grounds that the development is not in line with the planning intention of "AGR" zone; there is no public road leading to the Site and pollution could be caused by the motorcycle; the approval of application would encourage "destroy first, build

later” and approval of the application would set an undesirable precedent for similar applications in the area. Four individuals object to the application mainly on the grounds that the development would aggregate the existing traffic and cause adverse traffic, drainage and environmental impacts to the surrounding areas; the heavy traffic generated would threaten the safety of the villagers; the development would occupy the adjacent private land and the Site has potential for agricultural rehabilitation.

11. Planning Considerations and Assessments

- 11.1 The Site falls within an area zoned “AGR” on the OZP. The applied use is not totally in line with the planning intention of the “AGR” zone, which is intended 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 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 Site is located to the east of the Wing Ning Tsuen and near the existing village proper and surrounded largely by village houses, temporary structures and patches of hard paved areas for car parking (**Plan A-2**). It is noted that the temporary vehicle park is mainly to serve the local villagers for meeting their car parking needs. As the Site is currently hard paved with no existing vegetation, the development is considered not incompatible with the surrounding land uses which are predominantly village houses, vacant land and some active/fallow agriculture land (**Plans A-2 and A-3**). Since adverse landscape impact arising from the development is not anticipated, CTP/UD&L, PlanD has no objection on the application from landscape planning perspective.
- 11.3 After considering the further submissions on the estimated traffic flow and revised layout plan (**Appendices Ic and Id**), C for T has no objection to the application. 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 there has not been any substantial environmental complaint received against the Site in the past three years. Nevertheless, to minimize any potential environmental nuisances, the applicants should be advised to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”. To ensure that the temporary vehicle park would not degrade the environmental quality of the rural surroundings, approval conditions requiring only private vehicle and motorcycle are allowed to be parked on the Site; no workshop activity is permitted on the Site. Other Government departments consulted, including 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 There are six similar applications involving two sites falling within the same “AGR” zone (**Plan A-2**) for temporary vehicle park developments. All six applications were approved with conditions by the Committee between 2009 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. There has not been major change in planning circumstances since the approval of the similar

applications.

11.5 Regarding the adverse public comments as detailed in paragraph 10 and the local objections conveyed by DO(N) in paragraph 9.1.9 above, the Government departments' comments and planning assessment above are relevant. Regarding the comment from the Vice-chairmen of the Fanling District Rural Committee, the vehicular access leading to the Site is a common access shared by the villagers in the vicinity as shown on **Plan A-2**.

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 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 3.5.2022. 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 or enter/exit the Site at any time during the planning approval period;
- (b) no vehicles other than private cars and motorcycles are 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 peripheral fencing and paving 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 3.11.2019;
- (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 3.2.2020;
- (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 3.11.2019;
- (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 3.2.2020;
- (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;

- (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;
- (k) upon expiry of the planning permission, the reinstatement of the application 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**.

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

The proposed 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. There is no strong planning justification in the submission for a departure from the planning intention of "AGR" zone, 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 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

Appendix I	Application form with attachments received on 5.3.2019
Appendix Ia	Supplementary Information received on 7.3.2019
Appendix Ib	Further Information received on 8.4.2019
Appendix Ic	Further Information received on 17.4.2019
Appendix Id	Further Information received on 18.4.2019
Appendix II	Similar applications within the same "AGR" zone in the vicinity of the Site on the Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan No. S/NE-LYT/17
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
Plan A-4

Aerial Photo
Site Photos

PLANNING DEPARTMENT
May 2019