

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/NE-LYT/692

- Applicants** : Messrs. YEUNG Lam, YEUNG Yun Yau, YEUNG Wai Ming and YEUNG Wai Lun represented by Mr. YEUNG Yun Yau
- Site** : Lots 1442 and 1444 RP in D.D. 76 and adjoining Government Land, Sha Tau Kok Road, Fanling, New Territories
- Site Area** : 1,586 m² (about) (including about 190 m² of Government land)
- Land Status** : (i) Block Government Lease (demised for agricultural use)
(ii) Government land
- Plan** : Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
- Zoning** : “Agriculture” (“AGR”)
- Application** : Renewal of Planning Approval for Temporary Training Centre (Adventure Training Centre) for a Period of 3 Years until 11.6.2022

1. The Proposal

- 1.1 The applicants seek renewal of planning permission to continue using the application site (the Site) for temporary training centre (adventure training) for a further period of three years until 11.6.2022. 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 Plan. The Site is currently used for the applied use with valid planning permission until 11.6.2019.
- 1.2 According to the applicants, the development scheme submitted under the current renewal application is same as the previous application No. A/NE-LYT/591 in terms of the applied use, site layout and development parameters. The temporary adventure training centre comprises three covered areas (two structures for activities including rope and wall climbing, rope net, etc and one structure for toilet use) (i.e. Areas A, B and C), three sets of outdoor facilities for rope net and climbing activities

(i.e. Areas E1 to E3), and five container-converted structures for store rooms, activity rooms, ancillary offices and meeting rooms (i.e. Areas D1 to D5) with the total floor area of about 396.5m². There is no car parking and loading/unloading, facilities within the Site. The operation hours of the adventure training centre are from 7:00 a.m. to 7:00 p.m. every day. Participants of the adventure training centre are mainly from schools and Non-Governmental Organizations. A plan showing the site layout and usage of various structures within the Site is at **Drawing A-1**.

1.3 The Site is the subject of four previous applications (No. A/DPA/NE-LYT/62, and A/NE-LYT/413, 504 and 591). Except for the application No. A/DPA/NE-LYT/62 for open storage of waste metal, which was rejected by the Rural and New Town Planning Committee (the Committee) on 20.9.1993, all other three applications for the applied use submitted by the same applicants were approved with conditions by the Committee between 2010 and 2016. The last application (No. A/NE-LYT/591) was a renewal application for the same applied use and approved with conditions by Committee on 13.5.2016 for a period of three years from 12.6.2016 to 11.6.2019. The applicants have complied with all the approval conditions of the last approved application.

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

- (a) Application Form with attachments received on 14.3.2019 (Appendix I)
- (b) Further Information received on 11.4.2019 (Appendix Ia)
- (c) Further Information received on 12.4.2019 (Appendix Ib)

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in Part 8 of the application form at **Appendix I**. They can be summarized as follows:

- (a) the continued use of the Site for an adventure training centre on a temporary basis can help meet the education and training needs of both the students and staff of institutions in Hong Kong. It can help train more qualified trainers in the territory;
- (b) the adventure training centre is to provide the youngsters, students and different community groups a venue with safe and challenging facilities for educational purpose. It also makes reference to life education and helps the youth to understand oneself; and
- (c) the renewal of the planning approval can help improve the environment and ensure a better use of the land resource.

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

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

4. Town Planning Board Guidelines

- 4.1 The Town Planning Board Guidelines No. 34B (TPB-PG No. 34B) on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ are relevant to this application. The relevant assessment criteria are summarized as follows:
- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
 - (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
 - (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
 - (d) whether the approval period sought is reasonable; and
 - (e) any other relevant considerations.
- 4.2 Under normal circumstances, the approval period for renewal application should not be longer than the original validity period of the temporary approval. In general, the Board is unlikely to grant an approval period exceeding three years unless there are strong justifications and the period is allowed for under the relevant statutory plans. Depending on the circumstances of each case, the Board could determine the appropriate approval period, which may be shorter than the time under request.

5. Previous Applications

- 5.1 The Site is the subject of four previous applications (No. A/DPA/NE-LYT/62, and A/NE-LYT/413, 504 and 591). Application No. A/DPA/NE-LYT/62 for open storage of waste metal was rejected by the Committee on 20.9.1993 mainly on considerations that the proposed development was not in line with the planning intention of the area; the development was not compatible with the surrounding rural and agricultural land uses; and the proposed vehicular access, and car parking / loading/unloading arrangement within the Site were not satisfactorily provided.
- 5.2 Applications No. A/NE-LYT/413, 504 and 591 submitted by the same applicants for the same use as the current application were approved with conditions by the Committee on 11.6.2010, 3.5.2013 and 13.5.2016 respectively for a period of three years mainly on the considerations that the adventure training centre was small in scale with no requirement of parking and loading/unloading activities; the development would unlikely generate significant adverse traffic, environmental and drainage impacts on the surrounding area; and concerned Government departments had no adverse comment on the applications.
- 5.3 The development scheme submitted under the current renewal application is same as

the last previous application No. A/NE-LYT/591 in terms of the applied use, site layout and development parameters. All the approval conditions have been complied with and the planning permission is valid until 11.6.2019.

5.4 Details of the previous applications are summarized at **Appendix II** and the location is shown on **Plan A-1**.

6. Similar Application

There is no similar application within the “AGR” 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 and A-4a and A-4b)

7.1 The Site is:

- (a) current occupied by an adventure training centre comprises temporary structures for training activities, ancillary offices, store rooms and toilet; and
- (b) accessible from Sha Tau Kok Road – Ma Mei Ha.

7.2 The surrounding areas have the following characteristics:

- (a) predominantly rural in character with active and fallow agricultural land to the south and clusters of village houses / temporary structures for mainly domestic purpose to the south and north, across Sha Tau Kok Road;
- (b) to the northeast are a few vehicle parks and a temporary structure for storage use while the application site of another planning application (No. A/NE-LYT/691) for temporary public vehicle park use to its immediate northeast would be considered in the same meeting (**Plan A-2**); and
- (c) to the north across Sha Tau Kok Road is Hung Leng Village.

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 Site comprises private lots and the adjoining Government land. The lots are Old Schedule lots held under the Block Government Lease (demised for agriculture use) without any guarantee of 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 vehicle access of the applied use;
- (b) it is noted that the existing structures on the Site were erected without approval from his office. The structures are not acceptable under the Leases concerned. Besides, the Government land within the Site is being occupied without approval from his office. His office reserves the right to take enforcement actions against the structures and unauthorized occupation of Government land; and
- (c) an application for a Short Term Waiver (STW) in respect of Lots 1442 and 1444 RP in D.D. 76 and an application for a Short Term Tenancy (STT) (**Plan A-2**) have been received and are being processed by his office. All applications for STW/STT will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW/STT are approved, their commencement date would be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee / rent and administrative fees as considered appropriate by his office.

Traffic

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

It is noted that no car parking space and loading/unloading area inside the Site and no vehicular access to the Site would be provided. In this regard, she has no comment on the application from the traffic engineering point of view.

Environment

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

- (a) no environmental complaint related to the Site was received for the past three years; and
- (b) the applicants are advised to follow the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by the DEP to minimize potential environmental nuisance to the surrounding area.

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 point of view;
- (b) the Site is situated in an area of rural landscape character surrounded by temporary structures, village houses and clusters of trees. No significant change is observed in the landscape layout of the Site. According to the site layout plan provided by the applicants, there is no significant change in the layout compared to that in the previous application. Significant adverse impact on existing landscape resources arising from this renewal application is not anticipated;
- (c) should the application be approved, the applicants should be advised to properly maintain all existing trees and vegetation within the Site at all times during the planning approval period;
- (d) should the application be approved, the applicants should be advised of the following:
 - (i) the approval of application does not imply approval of tree works such as pruning, transplanting and felling under lease. Tree removal applications should be submitted direct to DLO/N, LandsD for approval; and
 - (ii) useful information published by the Greening, Landscape & Tree Management Section, Development Bureau on general tree maintenance and tree risk management is available for reference on its website.

Drainage

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

- (a) having reviewed the record photos submitted by the applicants (**Appendix Ib**), he considers that the implementation of drainage facilities on site is acceptable. The applicants are reminded that the development and the drainage facilities implemented on site shall not obstruct overland flow/surface runoff and any existing drainage facilities; and
- (b) the applicants shall make sure that rain water falling onto the Site shall be collected by a drainage system and conveyed to a proper discharge point(s). The applicants shall maintain such system properly and rectify the system if it is found to be inadequate or ineffective during operation at their own cost. The applicants shall also be liable for and shall indemnify Government against claims and demands arising out

of damage or nuisance caused by a failure of the system.

Building Matters

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

- (a) there is no record of approval by the Building Authority for the buildings/structures existing at the Site and BD is not in a position to offer comments on their suitability for the use related to the application;
- (b) if any existing structures are erected on leased land without approval of the BD (not being a New Territories Exempted House), they are unauthorised under the Buildings Ordinance (BO) and should not be designated for any approved use under this application;
- (c) before any new building works (including containers/open sheds as temporary building) are to be carried out on the Site, the prior approval and consent of the BD 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 BO;
- (d) the temporary shelters or converted containers for storage/washroom/first-aid room/site office are considered as temporary buildings are subject to control under the Building (Planning) Regulations (B(P)Rs) Pt. VII;
- (e) for UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO;
- (f) the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the B(P)Rs respectively; and
- (g) if the Site does not abut a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)Rs at the building plan submission stage.

Fire Safety

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

- (a) it is found that the fire service installation listed in the FS251 submitted by the applicants is not the same as those under the previous application (No. A/NE-LYT/591);
- (b) he has no in-principle objection to the application subject to fire

service installations (FSIs) and water supplies for fire-fighting being provided to the satisfaction of his department; and

- (c) 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; and
- (b) for the 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.

Agriculture

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

- (a) the Site has been largely formed and occupied for the applied use for some years; and
- (b) he has no comment on the application for renewal of the planning approval.

District Officer's Comments

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

he has consulted the concerned locals regarding the application. The Chairman of the Fanling District Rural Committee cum the Resident Representative (RR) of Ko Po, the incumbent North District Council Member of the subject constituency, the Indigenous Inhabitant Representative (IIR) and RR of Hung Leng, and the IIR and RR of Kan Tau Tsuen 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 (CHE/NTE, HyD); 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 22.3.2019, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period, one public comment on the application was received (**Appendix III**). The Chairman of Sheung Shui District Rural Committee indicates no comment on the application.

11. Planning Considerations and Assessments

- 11.1 The application is for renewal of planning permission for temporary training centre (adventure training) for a period of three years at the Site zoned “AGR” on the OZP. The development is not in line the planning intention of the “AGR” zone which is primarily to retain and safeguard 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. Nevertheless, DAFC has no comment on the renewal of the planning approval as the Site has been largely formed and occupied for the applied use for some years. Approval of the application on a temporary basis for another three years would not frustrate the long-term planning intention of “AGR” zone.
- 11.2 The current development proposal scheme is largely the same as the previously approved scheme (No. A/NE-LYT/591) in terms of the applied use, site layout and development parameters. The applied use is considered not incompatible with the surrounding land uses which are mixed uses comprising mainly agricultural land, vacant land, vehicle parks, village houses and temporary domestic structures. It is also not expected to have significant adverse impacts on the surrounding area. Concerned Government departments consulted, including C for T, CE/MN of DSD, DEP, D of FS and CTP/UD&L of PlanD, have no objection to or no adverse comment on the renewal application.
- 11.3 The Site is the subject of three previous applications (No. A/NE-LYT/413, 504 and 591) for the same temporary use which were approved with conditions by the Committee on 11.6.2010, 3.5.2013 and 13.5.2016 respectively. All the approval conditions for the last approved application (No. A/NE-LYT/591) have been complied with and the planning permission will lapse on 12.6.2019. There has not been major change in planning circumstances since the approval of the previous applications.
- 11.4 The application generally complies with the TPB PG-No. 34B on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ as there has not been any material change in planning circumstances since the approval of the last application; there are no major adverse departmental comments against the renewal application; all the approval conditions for the last application have been complied with; and the approval period sought which is for the same as the last approval granted by the Board is not unreasonable.
- 11.5 ~~Regarding the adverse public comments as detailed in paragraph 10 and the local objections conveyed by DO(N), HAD in paragraph 9.1.10 above, the Government department’s comments and the planning assessment above are relevant. *There is no adverse public comment or local objection received on the application.*~~

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 further 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 further period of 3 years, and be renewed from 12.6.2019 until 11.6.2022. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no night time operation between 7:00 p.m. and 7:00 a.m., as proposed by the applicants, is allowed on the Site during the planning approval period;
- (b) no parking, loading/unloading and picking up/setting down are allowed on the Site during the planning approval period;
- (c) the existing drainage facilities should be maintained properly at all times during the planning approval period and rectified if they are found inadequate/ineffective during operation;
- (d) the submission of proposals for water supplies for fire-fighting and fire service installations within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 12.12.2019;
- (e) in relation to (e) above, the provision of water supplies for fire-fighting and fire service installations within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 12.3.2020;
- (f) if any of the above planning conditions (a), (b) or (c) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (g) if any of the above planning conditions (d) or (e) 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
- (h) 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**.

- 12.3 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 applicants.

14. Attachments

Appendix I	Application form with attachments received on 14.3.2019
Appendix Ia	Further Information received on 11.4.2019
Appendix Ib	Further Information received on 12.4.2019
Appendix II	Previous s.16 Applications
Appendix III	Public Comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MAY 2019**