

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/710

<u>Applicant</u>	:	Country Rich Development Limited represented by Ms. WONG Po Yan
<u>Site</u>	:	Lot 1422 RP (Part) in D.D. 83, Lung Yeuk Tau, Fanling, New Territories
<u>Site Area</u>	:	4,110 m ² (about)
<u>Land Status</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
<u>Zoning</u>	:	“Village Type Development” (“V”)
<u>Application</u>	:	Proposed Temporary Public Vehicle Park (Private Car) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary public vehicle park (private car) for a period of three years. The Site falls within an area zoned “V” on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/17 (**Plans A-1a and A-1b**). According to the Notes of the OZP, ‘public vehicle park (excluding container vehicle)’ is a Column 2 use within “V” zone that requires planning permission from the Town Planning Board (the Board). The Site is currently vacant.
- 1.2 According to the applicant’s submission, there are 43 parking spaces (5m x 2.5m each) for private cars within the Site. Two single-storey containers will be provided as site office at the southern portion of the Site (with a total floor area of 30 m² and height in 2.5 m) (**Drawing A-1**). The operation hours of the temporary vehicle park are 24 hours daily. The ingress/egress point is about 6.5 m wide located at the southwestern boundary of the Site. The applicant estimates that there will be 43 vehicular trips per day. The Site is accessible via a local road leading to Sha Tau Kok Road – Lung Yeuk Tau (**Plan A-2**). The site layout plan and landscape proposal submitted by the applicant are at **Drawings A-1 and A-2**.
- 1.3 The Site is the subject of four previously approved applications (No. A/NE-LYT/270, 385, 448 and 477) for similar temporary public vehicle park uses. Applications No. A/NE-LYT/270, 385 and 448 for temporary vehicle park for private car and light

goods vehicles were approved on review by the Town Planning Board (the Board)/ approved by the Rural and New Town Planning Committee (the Committee) between April 2004 and December 2011 for a period of three years. The last previous application No. A/NE-LYT/477 for the development of temporary public vehicle park for private cars and light goods vehicles and shop and services (car washing and waxing services) with ancillary storeroom was approved with conditions by the Committee for a period of one year on 20.7.2012. The application was later revoked on 26.10.2012. Details of the previous applications are set out in paragraph 4 below.

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application form with attachments received on 23.7.2019 **(Appendix I)**
- (b) Further Information (FI) received on 4.9.2019 **(Appendix Ia)**

2. Justifications from the Applicants

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form and FI at **Appendices I and Ia**. They can be summarized as follows:

- (a) the Site is subject of four previously approved applications No. A/NE-LYT/270, 385, 448 and 477 for similar vehicle park use and the Site has been vacant since 2012;
- (b) the Site is located to the north of Sha Tau Kok Road – Lung Yeuk Tau and within San Uk Tsuen. With the limited provision of parking spaces in the village, illegal parking has become more serious in the area and brought adverse traffic impact to the surrounding area;
- (c) there is imminent demand for car parking space in Lung Yeuk Tau area and the Site is not incompatible with the surrounding area. The proposed development is in line with the planning intention of “V” zone; and
- (d) the approval of the application and would not bring adverse environmental, traffic and drainage impacts to the area.

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

The applicant is the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Applications

- 4.1 The Site has been involved in five previous applications (No. A/NE-LYT/270, 385, 439, 448 and 477).
- 4.2 Applications No. A/NE-LYT/270, 385 and 448 for temporary public vehicle park for private cars and light goods vehicles and convenience store / renewal of the same applied use were approved with conditions on review by the Board/ by the

Committee between April 2004 and December 2011 mainly on the grounds that the proposed vehicle park was to serve the local residents; the applied use was considered not incompatible with the surrounding land uses; there were previous approvals granted on the Site for the same use; the application for temporary use would not affect the long term planning intention of the site. Application No. A/NE-LYT/448 was revoked on 27.2.2012 due to non-compliance with approval condition (d) (i.e. no vehicles without valid licence issued under the Road Traffic Ordinance were allowed to be parked/stored within the application site during the planning approval period).

- 4.3 Application No. A/NE-LYT/439 on part of the site for proposed temporary open storage of metal wares and construction materials for a period of 3 year was rejected by the Committee on 6.5.2011 mainly on the considerations that the proposed development was not in line with the planning intention of “V” zone and it did not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up uses (TPB PG-No. 13E); the proposed development was incompatible with the surroundings and might impose adverse environmental impacts to the domestic dwellings; and approval of the application would set an undesirable precedent for similar application within the “V” zone.
- 4.4 Application No. A/NE-LYT/477 for proposed temporary public vehicle park for private car and light goods vehicles and shop and services (car washing and waxing services) with ancillary storerooms submitted by different applicant was approved with conditions by the Committee on 20.7.2012 for a period of 1 year mainly on the considerations that the use under application was considered not incompatible with the surrounding land uses; there was a previous approval granted on the site for the same use except the car washing and waxing shop; the applicant has shown his sincerity to address the reason of revocation of the previous planning approval; and the development would not cause significant adverse traffic, drainage and landscape impacts on the surrounding area. The application was revoked on 26.10.2012 due to non-compliance with approval condition (d) (i.e. no vehicles without valid licence issued under the Road Traffic Ordinance were allowed to be parked/stored within the application site during the planning approval period).
- 4.5 Details of the previous applications are summarized at **Appendix II** and the locations are shown on **Plans A-1a and A-1b**.

5. Similar Application

- 5.1 There is one similar application (No. A/NE-LYT/406) for temporary public vehicle park within “V” zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area. The application was rejected by the Committee on 19.3.2010 on grounds that the proposed vehicular access, which was very close to a bus lay-by and would affect the bus operation thereat, was unacceptable from traffic engineering point of view and there was insufficient information to demonstrate that the development under application would not have adverse traffic impact on the surrounding area.
- 5.2 Details of the similar application are at **Appendix III** and the location is shown on **Plan A-1a**.

6. The Site and Its Surrounding Areas (Plans A-1a, A-1b, A-2, A-3 and A-4a and A-4b)

6.1 The Site is:

- (a) flat, paved and fenced off;
- (b) entirely within the village ‘environs’ (‘VE’) of San Uk Tsuen; and
- (c) accessible from Sha Tau Kok Road – Lung Yeuk Tau via a local track.

6.2 The surrounding areas have the following characteristics:

- (a) the surrounding land uses are predominantly rural in character intermixed with village houses, parking of vehicles and vacant land;
- (b) to the north and north-east is Suen Douh Camp within “Government, Institution or Community” (“G/IC”) zone;
- (c) to the west is a local track leading to the Site from Sha Tau Kok Road – Lung Yeuk Tau and to the west across the local track is Ma Wat River; and
- (d) to the east and south are village houses in the “V” zone of San Uk Tsuen.

7. 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. Selected commercial and community uses serving the needs of villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Town Planning Board.

8. Comments from Relevant Government Departments

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

Land Administration

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

- (a) no Small House application at the Site has been received by her office. She has no comment on the application from Small House Policy perspective at present stage;
- (b) the lot under application is an Old Schedule Lot held under Block

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

- (c) the existing structure on the Site was erected without approval from her office. The aforesaid structure is not acceptable under the Lease concerned. Her office reserves the right to take enforcement actions against the aforesaid structure; and
- (d) should the planning application be approved, the owner of the lot shall apply to her office for a Short Term Waiver (STW) covering all the actual occupation area. 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 would 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 her office.

Traffic

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

- (a) having reviewed the further information submitted by the applicant (**Appendix Ia**), he has no further comment and no objection to the application; and
- (b) the vehicular access between the Site and Sha Tau Kok Road – Lung Yeuk Tau (**Plan A-2**) is not managed by the Transport Department. The land status, management and maintenance responsibilities of the local track should be clarified with the relevant lands and maintenance authorities accordingly.

8.1.3 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 connecting the Site to Sha Tau Kok Road – Lung Yeuk Tau is not maintained by HyD.

Environment

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

- (a) he has no objection to the application as the Site will not involve parking of heavy goods vehicle and container truck;
- (b) no environmental complaint related to the Site was received for the

past three years; and

- (c) should the application be approved, the applicant is advised to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.

Drainage

8.1.5 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 applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse impact to the adjacent area;
- (c) the Site is in an area where no public sewerage connection is available;
- (d) the Site is in the vicinity of an existing streamcourse (**Plan A-2**). The applicant shall be required to place all the proposed works 3m away from the top of the bank of the streamcourse. All the proposed works in the vicinity of the streamcourse should not create any adverse drainage impacts, both during and after construction. Proposed flooding mitigation measures if necessary shall be provided at the resources of the applicant to his satisfaction; and
- (e) the applicant should be reminded to minimize the possible adverse environmental impacts on the exiting streamcourse in his design and during the construction.

Building Matters

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

- (a) he has no objection to the application;
- (b) before any new building/drainage 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);
- (c) any temporary shelters or converted containers for site office are considered as temporary buildings are subject to control under Building (Planning) Regulations (B(P)R) Pt. VII;

- (d) 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;
- (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 B(P)R19(3) at the building plan submission stage; and
- (f) 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

8.1.7 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;
- (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should also be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSI to be installed should be clearly marked on the layout plans; and
- (c) the applicant is 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

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

the Site is paved. It is noted that applications for similar use at the Site had been previously approved and she has no comment on the application from nature conservation point of view.

Water Supply

8.1.9 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 applicant may need to extend the inside services to the nearest suitable Government water mains for connection. The applicant 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

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

she has consulted the locals regarding the application. The Chairman of Fanling District Rural Committee and two Indigenous Inhabitants Representatives (IIR) of Lung Yeuk Tau have no comment on the application. Suen Douh Camp supports the application on the ground that the approval of application would provide more parking spaces to the villagers. The Resident Representative (RR) of Lung Yeuk Tau objects to the application in that the Site is in close proximity of the residential area which would cause adverse environmental impacts to the area.

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

- (a) Project Manager (North Development Office), Civil Engineering and Development Department; and
- (b) Chief Town Planner/Urban Design and Landscape, Planning Department.

9. Public Comments Received During Statutory Publication Period

On 30.7.2019, 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 (**Appendix IV**). The Chairman of Sheung Shui District Rural Committee has no comment on the application. Five individuals 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 and lead to more traffic accidents; there are still available parking spaces in the vicinity of the Site; the operation of car park would generate noise and air pollutions to the surrounding villages; the proposed use would cause adverse traffic and environmental impacts to the surrounding areas; and the heavy traffic generated would threaten the safety of the villagers.

10. Planning Considerations and Assessments

10.1 The application is for a proposed temporary public vehicle park for a period of three years at the Site falling within the "V" zone on the OZP. Whilst the applied use is not totally in line with the planning intention of the "V" zone where land is primarily intended for development of Small Houses by indigenous villagers, DLO/N, LandsD has no objection to the application and advised that there is no Small House application received for the Site. Moreover, according to the applicant, the temporary

public vehicle park is mainly to serve the local villagers for meeting their car parking needs. Given the temporary nature of the proposed use, approval of the application on a temporary basis for a period of three years would not jeopardize the long term planning intention of the “V” zone.

- 10.2 The Site is located within the “V” zone of San Uk Tsuen and is in close proximity to the village development of San Uk Tsuen (**Plans A-1a and A-2**). The temporary public car park will provide a total of 43 parking spaces for private cars. The Site is paved and formed. The proposed use is considered not incompatible with the surrounding land uses which are predominantly village houses, parking of vehicles and vacant land. C for T 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 applicant should follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental impacts to the nearby residents should the application be approved by the Board. Other Government departments consulted, including CTP/UD&L of PlanD, DAFC, CE/MN of DSD, D of FS and CE/C of WSD, have no adverse comment on or no objection to the application.
- 10.3 The Site is the subject of four previously approved applications (No. A/NE-LYT/270, 385, 448 and 477) for the similar temporary vehicle park use. They were approved on review by the Board/ approved with conditions by the Committee between 2004 and 2012 mainly on the considerations that the proposed vehicle park was to serve the local residents; the use under application was considered not incompatible with the surrounding land uses; there were previous approvals granted on the site for the same/similar use; the applicant has shown his sincerity to address the reason of revocation of the previous planning approval; and the development would not cause significant adverse traffic, drainage and landscape impacts on the surrounding area. The last previous permission (No. A/NE-LYT/477) submitted by different applicant was revoked by the Board on 26.10.2012 due to non-compliance with approval condition (d) requiring that no vehicles without valid licence issued under the Road Traffic Ordinance to be parked/stored within the application site during the planning approval period. There has not been major change in planning circumstances since the approval of the previous applications.
- 10.4 Regarding the local objection conveyed by DO(N) of HAD and adverse public comments objecting to the application as detailed in paragraph 9 above, the Government department’s comments and the planning assessment above are relevant.

11. Planning Department’s Views

- 11.1 Based on the assessment made in paragraph 10 and having taken into account the public comments mentioned in paragraph 9, the Planning Department considers that the temporary use under application could be tolerated for a period of 3 years.
- 11.2 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 20.9.2022. 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 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 as defined in the Road Traffic Ordinance is allowed to be parked on or enter/exit the Site at any time during the planning approval period;
- (d) no vehicle dismantling, inspection, maintenance, repairing, cleansing, paint spraying or other workshop activities is allowed on the Site at any time during the planning approval period;
- (e) the maintenance of boundary fencing on Site 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 Drainage Services or of the Town Planning Board by 20.3.2020;
- (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 Drainage Services or of the Town Planning Board by 20.6.2020;
- (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 20.3.2020;
- (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 20.6.2020;
- (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; and
- (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.

Advisory Clauses

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

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

the proposed development is not in line with the planning intention of the "Village Type Development" zone in the Lung Yeuk Tau and Kwan Tei South area which is to

designate both existing recognized villages and areas of land considered suitable for village expansion and land within this zone is primarily intended for development of Small Houses by indigenous villagers, and to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.

12. **Decision Sought**

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning permission.
- 12.2 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.
- 12.3 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.

13. **Attachments**

Appendix I	Application form with attachments received on 23.7.2019
Appendix Ia	Further Information received on 4.9.2019
Appendix II	Previous s.16 Applications
Appendix III	Similar s.16 Application within/partly within “V” zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area
Appendix IV	Public Comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Landscape Proposal
Plan A-1a	Location Plan
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a & A-4b	Site Photos