

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/725

<u>Applicant</u>	:	Shui Fat Properties Limited represented by Thomas Tsang Surveyors Limited
<u>Site</u>	:	Lot 1573 S.A (Part) in D.D.76, Kan Tau Tsuen, Lung Yeuk Tau, New Territories
<u>Site Area</u>	:	480 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 and Light Goods Vehicle Only) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a proposed temporary public vehicle park (private car and light goods vehicle only) 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 (**Plan A-1**). According to the Notes of the OZP, ‘public vehicle park (excluding container vehicle)’ is a Column 2 use in “V” zone requiring planning permission from the Town Planning Board (the Board).
- 1.2 According to the applicant’s submission, there are 16 parking spaces for 12 private cars and 4 light goods vehicles within the Site. The temporary public vehicle park would open 24 hours daily including public holidays mainly serving the needs of the local villagers. The ingress/egress point is located at the southern boundary of the Site (**Drawing A-1**). The Site is accessible via a local road leading to Sha Tau Kok Road – Ma Mei Ha (**Plan A-1**). The site layout plan submitted by the applicant is at **Drawing A-1**. The Site is currently formed and vacant.

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

- (a) Application Form with other attachments on 22.4.2020 (Appendix I)
- (b) Further Information received on 3.6.2020 ^ (Appendix Ia)
- (c) Letter dated 5.6.2020 requesting for 1st deferment of consideration of the application (Appendix Ib)
- (d) Further Information received on 12.8.2020 ^ (Appendix Ic)
- (e) Letter dated 22.9.2020 requesting for 2nd deferment of consideration of the application (Appendix Id)
- (f) Further Information received on 7.12.2020 ^ (Appendix Ie)

^ [*accepted and exempted from publication and recounting requirements*]

1.4 At the request of the applicant (**Appendices Ib and Id**), the Rural and New Town Committee (the Committee) agreed on 12.6.2020 and 9.10.2020 to defer making a decision on the application for two months each pending the preparation of further information to address the departmental comments. The applicant submitted the further information (**Appendices Ic and Ie**) on 12.8.2020 and 7.12.2020 respectively and the application is re-scheduled for consideration by the Committee on 5.2.2021.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed at **Appendices I, Ic and Ie**. They can be summarized as follows:

- (a) the Site is subject to Block Government lease for agricultural use;
- (b) the Site falls within the “V” zone which is primarily intended for development of Small House by indigenous villagers. The area adjoining the Site is largely developed;
- (c) the Site was once used by villagers for car parking purpose but now is vacant. The land owner is not aware that car parking use requires planning permission;
- (d) the application can help resolving the pressing parking need of the villagers and reduce road side parking to facilitate emergency vehicles to pass through the village access; and
- (e) traffic load to and from Sha Tau Kok Road has been improved after operation of Heung Yuen Wai Highways. The traffic impact of the development on the road link and junction is negligible (**Appendix Ic**). The existing road can be capable for two-way traffic and the swept path analysis also demonstrated that satisfactory manoeuvring of vehicles entering to and existing from the Site (**Appendix Ie**).

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. Background

The Chief Town Planner / Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD) advised that the Site is part of the subject of an active enforcement case (No. E/NE-LYT/231) against unauthorized storage use, workshop use and parking of vehicles. An Enforcement Notice was issued on 4.10.2019 to the notice recipient requiring the discontinuance of the unauthorized development by 4.1.2020. The notice recipient was subsequently prosecuted and convicted on 25.11.2020. His office will continue monitor the site condition according to established procedure.

5. Previous Application

There is no previous application for the Site.

6. Similar Application

There is no similar application within the same “V” zone.

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

7.1 The Site is:

- (a) flat, paved and currently vacant;
- (b) entirely within the village ‘environs’ (‘VE’) of Kan Tau Tsuen; and
- (c) accessible from Sha Tau Kok Road – Ma Mei Ha 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, parking of vehicles and vacant land;
- (b) to the north are village houses in the “V” zone of Kan Tau Tsuen;
- (c) to the immediate west are two village houses and further west are some vacant and active agricultural land;
- (d) to the east is a village house and further east is a car park without valid planning permission; and
- (e) to the immediate south is a local track leading to the Site from Sha Tau Kok Road – Ma Mei Ha and further south are village houses with planning approval in the “AGR” zone.

8. Planning Intention

The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily

intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

9. Comments from Relevant Government Departments

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

Land Administration

9.1.1 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;
- (b) 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 for acquiring access, and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the applied use;
- (c) the Site is surrounded by private lots. The applicant should make its own arrangement for acquiring access with the lot owners concerned; 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 the structures, if any. 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

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

- (a) upon review of the further information as submitted by the applicant (**Appendices Ic and Ie**), he considers the traffic impact generated from the proposed use is minimal and has no in-principle objection to the application from traffic engineering viewpoint; and
- (b) the vehicular access between the Site and Sha Tau Kok Road – Ma Mei Ha is not managed by the Transport Department. The applicant 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 access road connecting the Site to Sha Tau Kok Road – Ma Mei Ha is not maintained by HyD.

Environment

9.1.4 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; and
- (b) 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

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 applicant 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.

Fire Safety

9.1.6 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, fire service installations (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 FSIs 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 Buildings Ordinance (Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Agriculture

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

the Site is paved. She has no comment on the application from nature conservation point of view.

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 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

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

he has consulted the locals regarding the application. The Chairman, the First Vice-Chairman, the Vice-Chairman of Fanling District Rural Committee, the Indigenous Inhabitant Representatives of Kan Tau Tsuen and the incumbent North District Council Member of the subject constituency object to the application on the grounds of adverse traffic, drainage and environmental impacts arising from the applied use; and road safety risk to the residents due to narrow access leading to the Site.

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

- (a) Chief Building Surveyor/ New Territories West, Buildings Department (CBS/NTW, BD);
- (b) Project Manager (North Development Office), Civil Engineering and Development Department; and
- (c) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L of PlanD).

10. Public Comments Received During Statutory Publication Period (Appendix II)

On 28.4.2019, the application was published for public inspection. During the statutory public inspection period, six public comments on the application were received. The Chairman of Sheung Shui District Rural Committee has no comment on the application. One submission (attaching a number of signatures) supports the application mainly on the considerations that the applied development can meet the pressing need of villagers. The remaining four comments from the Chairman, the First Vice-Chairman, the Vice-Chairman of Fanling District Rural Committee and an individual object to the application mainly on the grounds that an increase of traffic flow resulting from the applied use would aggregate the existing traffic condition and threaten pedestrian safety; the applied use would cause noise pollution, flooding risk and deteriorate villagers' quality of life; and land resource in "V" zone should be utilized efficiently.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary private vehicle park (private car and light goods vehicle only) for a period of 3 years at the Site zoned "V" on the OZP. Whilst the applied use is not in line with the planning intention of "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 vehicle park will help to serve the local villagers for meeting their car parking needs. Given the temporary nature of the use, approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the area.
- 11.2 The Site is located within the "V" zone of Kan Tau Tsuen and is in close proximity to the village development of Kan Tau Tsuen (**Plans A-1 and A-2**). It is mainly formed and paved. The temporary public vehicle park is considered not entirely incompatible with the surrounding land uses which are predominantly village houses and vacant land. CTP/UD&L of PlanD has no comment on the application from landscape planning perspective.
- 11.3 Having reviewed the FI submitted by the applicant, C for T considers the traffic impact generated from the proposed use is minimal and has no objection to the application from traffic engineering perspective. 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 CE/MN of DSD, DAFC and D of FS, have no adverse comment on or no objection to the application.

- 11.4 Regarding the local objections conveyed by DO(N) of HAD and adverse public comments objecting to the application as detailed in paragraphs 9.1.9 and 10 above, the Government departments' comments and the planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the local objections conveyed by DO(N) of HAD and public comments mentioned in paragraphs 9.1.9 and 10, the Planning Department has no objection to the application.
- 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 5.2.2024. 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/light goods vehicle 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/light goods vehicle 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) the submission of a 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 5.8.2021;
- (e) in relation to (d) 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 5.11.2021;
- (f) 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 5.8.2021;
- (g) in relation to (f) 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 5.11.2021;

- (h) if any of the above planning conditions (a), (b) or (c) 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
- (i) if any of the above planning conditions (d), (e), (f) or (g) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

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

12.3 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 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. There is no strong planning justification in the submission for a departure from such 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.
- 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

Appendix I	Application form with attachments received on 22.4.2020
Appendix Ia	Further Information received on 3.6.2020
Appendix Ib	Letter dated 5.6.2020 requesting for 1 st deferment of consideration of the application
Appendix Ic	Further Information received on 12.8.2020
Appendix Id	Letter dated 22.9.2020 requesting for 2 nd deferment of consideration of the application
Appendix Ie	Further Information received on 7.12.2020
Appendix II	Public Comments
Appendix III	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 & A-4b	Site Photos

**PLANNING DEPARTMENT
FEBURARY 2021**