

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/739

- Applicant** : Anson Technology Limited represented by Top Bright Consultants Limited
- Site** : Lot 1828 (Part) in D.D. 76, Ma Mei Ha, Fanling, New Territories
- Site Area** : About 1,072 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Place of Recreation, Sports or Culture (Golf Training Centre) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary place of recreation, sports or culture (golf training centre) for a period of three years at the application site (the Site) (**Plan A-1**). The Site is 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 or development of any land or building 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 under the Notes of the OZP. The Site is largely vacant and occupied by a temporary structure at the southern part of the Site.
- 1.2 The proposed development comprises three one-storey structures for indoor golf training and practice, ancillary site office and washroom respectively at the north-western and southern portion of the Site with a total floor area of about 250 m² (**Drawing A-1**). An uncovered area at the centre and southeast of the Site will be used for parking spaces, manoeuvring, garden and outdoor seating area, putting green and moveable golf practice net for outdoor practice purpose. Five private car parking spaces (measuring 5 m x 2.5 m) will be provided within the Site for the use of staff and visitors (**Drawing A-1**). The Site is accessible via a local track leading to Lung Yeuk Tau Road – Ma Mei Ha (**Plan A-2**).

- 1.3 The proposed operation hours are from 2:00 p.m. to 7:00 p.m. from Mondays to Fridays, and 9:00 a.m. to 7:00 p.m. from Saturdays to Sundays including public holidays. The estimated number of visitors during weekdays and weekends are approximately 10 and 34 respectively. There will be about 2 staff working at the Site. The proposed development will be open to the public charging on an hourly basis and appointment is required. The proposed site layout plans and landscape plan are at **Drawings A-1 to A-3**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with Attachments received on 24.11.2020 (Appendix I)
 - (b) Supplementary Planning Statement (Appendix Ia)
 - (c) Supplementary Information received on 27.11.2020 (Appendix Ib)
 - (d) Letter dated 13.1.2021 requesting for deferment of consideration of the application (Appendix Ic)
 - (e) Further Information received on 29.1.2021 ^ (Appendix Id)
 - (f) Further Information received on 10.3.2021 ^ (Appendix Ie)

^ accepted and exempted from publication and recounting requirements

- 1.5 At the request of the applicant, the Rural and New Town Planning Committee (the Committee) agreed on 22.1.2021 to defer making a decision on the application for two months pending the preparation of further information to address the departmental comments. The applicant submitted the further information (**Appendices Id and Ie**) on 29.1.2021 and 10.3.2021 and the application is re-scheduled for consideration by the Committee on 26.3.2021.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Supplementary Planning Statement and Further Information at **Appendices Ia, Ib, Id and Ie**. They can be summarised as follows:

- (a) the applicant aims to provide the nearby residents with an affordable golf venue to explore golfing as to respond to the higher community awareness of healthier lifestyle and demand for sports that can be enjoyed by different ranges of players. The proposed development will also provide more opportunities for those players who need more intensive training for basic techniques;
- (b) the Site and the adjacent area are left abandoned. Temporary use of the Site will allow a better utilization of scarce land resources and to meet the need of general public by providing a recreational venue. The proposed development is not close to any sensitive receivers. Most training activities will be conducted indoor and no more than 10-12 people are allowed for each timeslot;
- (c) the proposed development is not incompatible with the surrounding land uses which mainly comprise vacant land, open storage, warehouse and some agricultural land. Approval of the application would not result in any interface problems with the surrounding areas;
- (d) four similar applications for temporary place of recreation, sports or culture (adventure training centre) (No. A/NE-LYT/413, 504, 591 and 692) were approved by the Board involving the same site, the use and scale of this proposed development are similar to the

approved applications; and

- (e) appointment is required and no public announcement system will be allowed. There is no adverse environmental, traffic and drainage impacts anticipated.

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

The applicant is not the “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending a notice to the Fanling District Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

According to the Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD), the Site was the subject of an enforcement case. An Enforcement Notice (EN) against storage use was issued on 23.7.2019 requiring the unauthorized development (UD) to be discontinued by 23.10.2019. Subsequent site inspection revealed that the UD has been discontinued. The Compliance Notice was issued on 3.7.2020.

5. **Previous Application**

- 5.1 The Site is the subject of a previous application (No. A/NE-LYT/93) for temporary open storage of construction materials for a period of 12 months. The application was rejected by the Board on review on 11.10.1996 mainly on the considerations that the proposed development was not in line with the planning intention of the "AGR" zone; the proposed development was not compatible with the surrounding land uses; and the approval of the application would set an undesirable precedent for other similar applications.
- 5.2 Details of the previous application are summarised at **Appendix II** and its location is shown on **Plan A-1**.

6. **Similar Applications**

- 6.1 There are four similar applications (No. A/NE-LYT/413, 504, 591 and 692) for temporary place of recreation, sports or culture (adventure training centre), providing outdoor and climbing activities, submitted by the same applicant involving the same “AGR” zone in the vicinity of the Site in Lung Yuek Tau and Kwan Tei South area (**Plan A-1**).
- 6.2 Application No. A/NE-LYT/413 was approved with conditions by the Committee on 11.6.2010 mainly on the considerations that the proposed development was not incompatible with the surrounding area; the proposed development was small in scale and would not cause adverse traffic, environmental and drainage impacts on the surrounding areas; and the concerns of departments could be addressed by imposing approval conditions.
- 6.3 Applications No. A/NE-LYT/504, 591 and 692, which were the renewal of planning

approval of application, were approved with conditions by the Committee between 2013 and 2019 mainly on the considerations of complying with the Town Planning Board Guidelines No. 34B on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG-No. 34B) in that there were no material changes in the planning circumstances since the previous approval was granted and all approval conditions under the previous application had been complied with.

- 6.4 Details of these similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

7. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photos on Plan A-3 and site photos on Plan A-4)

7.1 The Site is:

- (a) fenced off and largely covered by grass;
- (b) largely vacant and occupied by a structure at the southern portion of the Site (**Plan A-4**); and
- (c) located to the southeast of Sha Tau Kok Road – Ma Mei Ha.

7.2 The surrounding areas have the following characteristics:

- (a) mainly a mixed rural landscape character dominated by vacant land, warehouse and some active/fallow agricultural land;
- (b) to the immediate north is fallow agricultural land use, and further north are some temporary structures for warehouse use;
- (c) to the west and east is some vacant land covered by grass; and
- (d) to the south are active agricultural land use and plant nursery with some temporary structures.

8. Planning Intention

The planning intention of the “AGR” zone 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 summarised as follows:

Land Administration

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

- (a) the Site comprises a private lot which is an Old Schedule Lot held under the Block Government Lease (demised for agricultural use) without any guarantee of right of access. The applicant should make his own arrangement for acquiring access to the Site, and there is no guarantee that any adjoining Government land will be allowed for the vehicular access to the Site for the proposed use;
- (b) there is an existing structure erected at the Site without approval from his office (**Plan A-3**). The total built-over area of the existing structure on the Site may exceed the proposed development parameters. Such structure is not acceptable under the Lease concerned and his office reserves the right to take necessary lease enforcement actions against the aforesaid structure;
- (c) it is noted that 3 structures including a washroom are planned to be erected at the Site. The applicant should note that the proposed washroom or any toilet facility should meet the current health requirements; and
- (d) if the application is approved, the owner(s) of the lot concerned shall apply to his office for a Short Term Waiver (STW) covering all the actual occupation area and structure concerned. 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 the 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 FI submission in substantiating traffic generation/attraction from and to the Site and demonstrating satisfactory manoeuvring of vehicles within the Site, and the provision of mitigation measures to ensure pedestrian safety, she has no further comment on the application from the traffic engineering point of view; and
- (b) the vehicular access between the Site and Sha Tau Kok Road – Ma Mei Ha is not managed by Transport Department. The applicant should seek comment from the responsible party.

Agriculture

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

the Site currently comprises abandoned land and a temporary structure. 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 open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.

Environment

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

- (a) he has no objection to the application from environmental planning perspective subject to the approval condition of prohibiting any form of audio amplification system; and
- (b) should the application be approved, the applicant is reminded to strictly observe (i) all relevant pollution control / environmental protection ordinances; (ii) EPD's latest "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites" (COP); (iii) Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and (iv) ProPECC PN 1/94 "Construction Site Drainage" etc. and implement appropriate mitigation measures during construction and operation phases to avoid adverse environmental impacts. Details are appended at **Appendix V**.

Landscape

9.1.5 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) based on aerial photo of 2020, the Site is located in an area of rural landscape character surrounded by village houses, farmland, temporary structures and scattered tree groups. The proposed development is considered not entirely incompatible with the surrounding environment. According to aerial photos from 2005 to 2020, it is observed that there is no significant existing vegetation. Significant adverse impact on existing landscape resources arising from the proposed development is not anticipated; and
- (c) since the Site is set back from Sha Tau Kok Road – Ma Mei Ha, with existing vegetation buffer, there is no major public frontage along the site boundary. Should the Board approve this application, it is considered not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent.

Drainage

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

- (a) he has no objection in-principle 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 the proposed use will not cause adverse impact to the adjacent area; and
- (c) the Site is within an area where connection to existing public sewerage network is available in the vicinity. Should the applicant choose to connect his proposed drainage systems to DSD's networks, they shall furnish his office with the connection proposal for agreement.

Building Matters

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

he has no comment on the application and his advisory comments are appended at **Appendix V**.

Fire Safety

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

- (a) he has no in-principle objection to the application subject to fire service installations (FSIs) and water supplies for firefighting being provided to the satisfaction of his department;
- (b) having considered the design/nature of the proposal, the applicant is advised to submit the relevant layout plans incorporated with the proposed FSIs to his department for approval. In preparing the submission, the applicant is 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 locations of the proposed FSIs to be installed and the access for emergency vehicles should be clearly indicated 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 safety requirements will be formulated upon receipt of formal submission of the aforesaid plans.

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 Chairman, the First Vice-Chairman, the Vice-Chairman of Fanling District Rural Committee and the Resident Representative of Leng Tsui object to the application mainly on the grounds that adverse traffic impact and disturbance to tranquil rural environment are anticipated; and the Site is in close proximity to residential area. The North District Council Member of the subject constituency and the Indigenous Inhabitant Representative of Leng Tsui have no comment on the application.

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

- (a) Comments of the Commissioner of Police (C of P);
- (b) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD);
- (c) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (d) Director of Leisure and Cultural Services (DLCS); and
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

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

On 1.12.2020, the application was published for public inspection. During the statutory public inspection period, nine public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Among eight other comments, except one individual not objecting to the application provided that the proposed development is open to the public; the opening hour is specified to minimize the nuisances to the nearby residents and no adverse traffic impact generated, all other seven public comments from the Chairman, the First Vice-Chairman, the Vice-Chairman of Fanling District Rural Committee, WWF – HK, Kadoorie Farm and Botanic Garden Corporation, Designing Hong Kong Limited and an individual object to the application mainly on the grounds that the Site is in close proximity to residential area; the proposed development would also cause adverse traffic impact; and the proposed development is not in line with planning intention of “AGR” zone; the Site should be used for growing crops; and approval of the application would set an undesirable precedent for other similar applications.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary place of recreation, sports or culture (golf training centre) in the Site zoned “AGR” on the OZP. The proposed temporary 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 and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from the agricultural development point of view. Nevertheless, given its temporary nature and small in scale, it is considered that the approval of the application on a temporary basis

for a period of three years would not frustrate the long-term planning intention of the “AGR” zone.

- 11.2 The Site is surrounded by a mixed rural landscape character dominated by vacant land, temporary structures, farmland and tree groups. The proposed development is considered not entirely incompatible with the surrounding land uses. There is no significant existing vegetation and significant adverse impact on existing landscape resources arising from the proposed development is not anticipated. In this regard, CTP/UD&L, PlanD has no objection to the application from the landscape planning perspective.
- 11.3 The proposed development comprises three one-storey structures for indoor golf training and practice, ancillary site office and washroom with a total floor area of about 250 m². The estimated number of visitors during weekdays and weekends are approximately 10 and 34 respectively. The proposed development will be open to the public and appointment is required. Having reviewed the FI submission and the scale of development, C for T has no comment on the application from traffic engineering perspective. DEP has no objection to the application from environmental planning perspective subject to the approval condition of prohibiting any form of audio amplification system. Should the application be approved, the applicant is reminded to strictly observe all relevant pollution control / environmental protection ordinances; EPD’s latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” (COP); and Practice Note for Professional Person (ProPECC) PN 5/93 and ProPECC PN 1/94, etc. Other Government departments consulted, including D of FS, CE/MN of DSD and CE/C of WSD, have no adverse comment on or no objection to the application.
- 11.4 There are four similar applications (No. A/NE-LYT/413, 504, 591 and 692) for temporary place of recreation, sports or culture (adventure training centre) involving the same site which provide outdoor and climbing activities in the vicinity of the Site in the same “AGR zone of the Lung Yuek Tau and Kwan Tei South area (**Plan A-1**). All applications were approved with conditions by the Committee between 2010 and 2019 mainly on the considerations that the proposed development was small in scale, significant adverse traffic, environmental and drainage impacts on the surrounding areas were not anticipated. The circumstances of the current application are similar to these approved applications.
- 11.5 Regarding the adverse local comments conveyed by DO(N), HAD and public comments as detailed in paragraphs 9.1.9 and 10 above respectively, Government departments’ comments and 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 comments conveyed by DO(N), HAD and the public comments mentioned in paragraphs 9.1.9 and 10 above, the Planning Department considers that the temporary development could be tolerated for a period of three 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 26.3.2024. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 2:00 p.m. from Mondays to Fridays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation between 7:00 p.m. and 9:00 a.m. from Saturdays to Sundays (including public holidays), as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no public announcement system, portable loudspeaker or any form of audio amplification system, as proposed by the applicant, is allowed to be used on the Site at any time during the planning approval period;
- (d) the maintenance of peripheral fencing on Site 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 26.9.2021;
- (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 26.12.2021;
- (g) the submission of proposals for fire service installations and water supplies for firefighting 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 26.9.2021;
- (h) in relation to (g) above, the implementation of proposals for fire service installations and water supplies for firefighting 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 26.12.2021;
- (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; and
- (k) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

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 "AGR" 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 planning justification in the submission for a departure from the planning intentions, even on a temporary basis.

Advisory Clauses

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

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 applicant.

14. Attachments

Appendix I	Application Form with attachments received on 24.11.2020
Appendix Ia	Supplementary Planning Statement
Appendix Ib	Supplementary Information received on 27.11.2020
Appendix Ic	Letter dated 13.1.2021 requesting for deferment of consideration of the application
Appendix Id	Further Information received on 29.1.2021
Appendix Ie	Further Information received on 10.3.2021
Appendix II	Previous s.16 application
Appendix III	Similar Applications for temporary place of recreation, sports or culture within “AGR” zone in the vicinity of the Site
Appendix IV	Public Comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Proposed Drainage Plan
Drawing A-3	Proposed Landscape Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2021**