

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/755A

<u>Applicant</u>	:	Country Rich Development Limited represented by R-riches Property Consultants Limited
<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>	:	Draft Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/18
<u>Zoning</u>	:	“Village Type Development” (“V”)
<u>Application</u>	:	Temporary Public Vehicle Park (Excluding Container Vehicle) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary public vehicle park (excluding container vehicles) for a period of 5 years which falls within the “V” zone of the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Public Vehicle Park (Excluding Container Vehicle)’ is a Column 2 use within the “V” zone requiring planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission.
- 1.2 According to the applicant, the southern part of the Site comprises two single-storey structures with a total gross floor area (GFA) of about 30m² and a height of about 2.8m for site office use. The northern part is for car park use with 43 private car parking spaces each of 5m x 2.5m. The operation hours of the car park is 24 hours daily. The Site is accessible via a local road leading to Sha Tau Kok Road – Lung Yeuk Tau (**Plan A-2**). A layout plan of the development is at **Drawing A-1**. The applicant has also submitted a landscape, drainage and fire services installations proposals in support of the application.

- 1.3 The Site is part of the subject of six previous applications (No. A/NE-LYT/270, 385, 439, 448, 477 and 710). Five of them (No. A/NE-LYT/270, 385, 448, 477 and 710) for similar temporary vehicle park use were approved with conditions by the Rural and New Town Committee (the Committee) between 2004 and 2019, with the last planning application (No. A/NE-LYT/710) was submitted by the same applicant. The remaining application (No. A/NE-LYT/439) for temporary open storage use was rejected by the Committee in 2011 mainly on the grounds that it did not comply with the then Town Planning Board Guidelines for Application for Open Storage and Port back-up uses (TPB PG-No. 13 E).
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with attachments received on 29.12.2021 (Appendix I)
 - (b) Supplementary Information (SI) received on 6.1.2022 (Appendix Ia)
 - (c) Further Information (FI) received on 21.2.2022^ (Appendix Ib)
 - (d) FI received on 23.2.2022^ (Appendix Ic)
 - (e) FI received on 15.3.2022^ (Appendix Id)
 - (f) FI received on 23.3.2022^ (Appendix Ie)
- ^accepted and exempted from the publication and recounting requirements*
- 1.5 On 18.2.2022, the Board agreed to the applicant's request to defer making a decision on the application for 2 months to allow time for the preparation of FI to address departmental comments. The applicant submitted the FIs subsequently as detailed in paragraph 1.3 above. The application is schedule for consideration by the Committee at this meeting.

2. Justifications from the Applicants

The justifications put forth by the applicant in support of the application are detailed in the SI and FIs at **Appendices Ia to Id**, and summarised as follows:

- (a) the Site is subject of several previously approved applications for similar use. The last Application No. A/NE-LYT/710 was approved in 2019. While the applicant has made efforts to comply with the approval conditions, he was unable to comply with two approval conditions in time due to the COVID-19 pandemic. The planning permission was then revoked in February 2022. In the current submission, the applicant has submitted relevant technical proposals in support of the application;
- (b) the car park use is temporary in nature and would not frustrate the long-term planning intention of the "V" zone;
- (c) the applicant will strictly follow the 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' (Code of Practice) issued by the Environmental Protection Department to minimise adverse environmental impacts and nuisance to the surrounding area;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities will be allowed at the Site at any time during the planning approval period; and
- (e) the car park use would not generate adverse traffic, environmental, landscape and

drainage impacts to the area. Should the application be approved, adequate mitigation measures will be implemented to mitigate impacts arising from the use.

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 is part of the subject of six previous applications (No. A/NE-LYT/270, 385, 439, 448, 477 and 710) (**Plan A-1**). Five of them (No. A/NE-LYT/270, 385, 448, 477 and 710) for similar temporary vehicle park use were approved by the Committee/the Board upon review between 2004 and 2019, mainly on consideration that the vehicle park was to serve the local residents; not incompatible with the surrounding land uses; previous approvals granted on the site for the same/similar use; and no significant adverse traffic, drainage and landscape impacts on the surrounding areas.
- 4.2 The last planning application (No. A/NE-LYT/710) submitted by the same applicant of the current application for the same use was approved with conditions by the Committee on 20.9.2019 for a period of 3 years until 20.9.2022. The planning permission was subsequently revoked on 20.2.2022 due to non-compliance with approval conditions relating to the implementation of drainage facilities and fire service installations (FSIs) proposal. When compared with the last application, the proposal under the current application including the site area/layout and development parameters remain the same, except for a longer approval period (i.e. from 3 years to 5 years).
- 4.3 The remaining Application No. A/NE-LYT/439 for temporary open storage of metal, scrap metal, equipment for renovation, documents and home furniture was rejected by the Committee on 6.5.2011 mainly on the grounds of not in line with the planning intention of “V” zone; not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up uses (TPB PG-No. 13E); incompatible with the surroundings and might impose adverse environmental impacts to the domestic dwellings; and setting of an undesirable precedent for similar application within the “V” zone.
- 4.5 Details of the previous applications are shown in **Appendix II** and their locations are shown on **Plan A-1**

5. Similar Application

- 5.1 There is one similar application (No. A/NE-LYT/406) for temporary public vehicle park within the same “V” zone in the vicinity of the Site. The application was rejected by the Committee on 19.3.2010 mainly on the grounds that the proposed vehicular access would affect the bus operation thereat; unacceptable from traffic engineering point of view; and insufficient information to demonstrate no adverse

traffic impact on the surrounding areas.

- 5.2 Details of the similar application are at **Appendix III** and its location is shown on **Plan A-1**.

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

- 6.1 The Site is:

- (a) situated within the village ‘environs’ (‘VE’) of San Uk Tsuen;
- (b) paved and fenced off for parking of vehicles without valid planning permission; and
- (c) accessible from Sha Tau Kok Road – Lung Yeuk Tau via a local track.

- 6.2 The surrounding areas are rural in character dominated by clusters of village houses nearby, vehicle parks and vacant land. To the immediate north of the Site is a holiday camp (i.e. Suen Douh Camp). To the west across the local track is Ma Wat River.

7. Planning Intention

The planning intention of the “V” zone is to designate both existing recognised 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. Other commercial, community and recreational uses may be permitted on application to the Board.

8. Comments from Relevant Government Departments

- 8.1 The following government departments have been consulted on the application and their views are summarised as follows:

Land Administration

- 8.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):
- (a) the Site comprises Lot No. 1422 RP in D.D. 83. The lot 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 application lot, and there is no guarantee that any adjoining Government Land (GL) will be allowed for vehicular access to the Site for the applied use;

- (b) it is noted that there are unauthorised structures erected on the application lot. Her office reserves the right to take necessary lease enforcement actions against the structures as appropriate;
- (c) the owner of the application lot has submitted an application for a Short Term Wavier (STW), which is being processed by her office and will be considered by Government in its landlord's capacity. There is no guarantee that the STW application 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 wavier fee and administrative fees as considered appropriate by her office; and
- (d) there is no Small House application in respect of the application lot has been received.

Traffic

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

- (a) no comment on application from traffic engineering perspective; and
- (b) the vehicular access between the Site and Sha Tau Kok Road – Lung Yeuk Tau (**Plan A-2**) is not managed by his office.

Landscape

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

- the Site falls within a non-landscape sensitive zone and no significant landscape impact arising from the applied use is anticipated.

Environment

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

- (a) there was no environmental complaint received in the past three years; and
- (b) the applicant is advised to follow relevant mitigation measures and requirements in the latest Code of Practice issued by DEP.

Drainage

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

- (a) no objection to the application from the public drainage viewpoint;
- (b) the submitted drainage proposal is considered acceptable to his

department. Should the application be approved, a condition on the implementation of the accepted drainage proposal to the satisfaction of the Director of Drainage Services or of the Board should be imposed; and

- (c) the Site is in an area where no public sewerage connection is available.

Building Matters

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

- advisory comments under the Buildings Ordinance are provided at paragraph (c) of **Appendix V**.

Fire Safety

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

- (a) no in-principle objection to the application subject to FSIs being provided to his satisfaction;
- (b) the submitted FSIs proposal is considered acceptable to his department. The installation/maintenance/modification/repair work of FSI shall be undertaken by a Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall, after completion of the installation/maintenance/modification/repair works, issue to the person on whom instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to the D of FS; 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.

District Officer's Comments

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

- he has consulted the locals regarding the application. One Indigenous Inhabitant Representative (IIR) of Lung Yeuk Tau supports the application. The Chairman of Fanling District Rural Committee and the Chairman of Lung Shan Area Committee have no comment on the application. The incumbent North District Council member of subject constituency, IIRs of Lung Yeuk Tau and the Resident Representative (RR) of Lung Yeuk Tau do not response.

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

- (a) Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD);
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (c) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

9. Public Comments Received During Statutory Publication Period

On 7.1.2022, the application was published for public inspection. During the statutory public inspection period, three public comments on the application were received (**Appendix IV**). The Chairman of Sheung Shui District Rural Committee has no comment on the application. Two individuals object to the application mainly on the concerns on fire safety, adverse traffic impact, environmental pollution and inefficient land utilisation.

10. Planning Considerations and Assessments

- 10.1 The application is for a temporary public vehicle park (excluding container vehicle) for a period of 5 years at the Site zoned “V” zone on the OZP. The planning intention of “V” zone is mainly to designate both existing recognised 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. Other suitable commercial/community uses may be permitted on application to the Board. Although the car park use is not entirely in line with the planning intention of the “V” zone, it could serve the local villagers/residents for meeting their car parking needs in the area. As advised by DLO/N, LandsD, no Small House application has been received for the Site. Approval of the application on a temporary basis of 5 years would not frustrate the long-term planning intention of the area.
- 10.2 The Site is located at the fringe of San Uk Tsuen and accessible from Sha Tau Kok Road – Lung Yeuk Tau via a local track (**Plans A-1 and A-2**). It has been paved and fenced off. The car park use is considered not incompatible with the surrounding rural environment predominant with village houses, parking of vehicles and vacant land. As no significant landscape impact arising from the applied use is anticipated, CTP/UD&L of PlanD has no objection to the application. C for T has no objection to the application from traffic engineering point of view. Other government departments consulted, including DEP, CE/MN of DSD, D of FS, CHE/NTE of HyD, and CE/C of WSD have no adverse comment on or no objection to the application.
- 10.3 The Site is part of the subject of five previously approved applications (No. A/NE-LYT/270, 385, 448, 477 and 710) for the similar temporary vehicle park use (**Plan A-1**). They were approved with conditions by the Committee or the Board upon review between 2004 and 2019, mainly on the considerations that the proposed use was to serve the local residents; not incompatible with the surrounding land uses; previous approvals granted on the site for the same/similar use; and no significant adverse traffic, drainage and landscape impacts on the surrounding areas. The last application (No. A/NE-LYT/710) submitted by the same applicant of the current

application for the same use was approved with conditions by the Committee on 20.9.2019 for a period of 3 years until 20.9.2022. The planning permission was revoked on 20.2.2022 due to non-compliance with approval conditions relating to the implementation of drainage facilities and FSIs proposal. In support of the current application, the applicant has submitted a drainage proposal and FSIs proposal to address DSD's and D of FS's concerns. Both departments have no objection to/no adverse comment on the application. Should the application be approved by the Committee, shorter compliance periods for approval conditions are recommended with a view to closely monitor the progress on compliance with approval conditions. Furthermore, the applicant would be advised that if there is further non-compliance with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration would not be given to any further application.

- 10.4 There is one similar application (No. A/NE-LYT/406) for temporary car park use in the vicinity of the Site within the same "V" zone. It was rejected by the Committee mainly on the traffic ground in 2010. The planning circumstances of the current application are different from the rejected one.
- 10.5 Regarding the public comments objecting to the application as detailed in paragraph 9 above, government departments' 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 local comments conveyed by DO(N), HAD and public comments mentioned in paragraph 9, Planning Department has no objection to the temporary use under application for a period of 5 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 5 years until 1.4.2027. 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 existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (f) the implementation of the accepted drainage facilities 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 1.10.2022;
- (g) the implementation of the accepted fire service installations proposal 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 1.10.2022;
- (h) 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
- (i) if any of the above planning conditions (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 V**.

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

The applied use is not in line with the planning intention of the "V" zone which is to designate both existing recognised 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. 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. 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 29.12.2021
Appendix Ia	Supplementary Information received on 6.1.2022
Appendix Ib	Further Information (FI) received on 21.2.2022
Appendix Ic	FI received on 23.2.2022
Appendix Id	FI received on 15.3.2022
Appendix Ie	FI received on 23.3.2022
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
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
APRIL 2022**