

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/NE-LYT/767**

- Applicant** : Sze Hop Hing Wood Yard represented by Lanbase Surveyors Limited
- Site** : Lots 578 RP (Part), 579 RP (Part) and 580 RP in D.D. 83 and adjoining Government Land (GL), Kwan Tei, Fanling, New Territories
- Site Area** : About 3,131m<sup>2</sup> (including about 569m<sup>2</sup> of GL)
- Lease** : (a) Block Government Lease (demised for agricultural use); and  
  
For Lots 579 RP (Part) and 580 RP in D.D. 83  
Short Term Waiver (STW) No. 1110  
- Restricted for the purpose of retail shop and storage of building materials  
  
(b) GL
- Plan** : Draft Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/18
- Zonings** : “Agriculture” (“AGR”) (about 51% of the Site) and  
“Village Type Development” (“V”) (about 49% of the Site)
- Application** : Temporary Shop and Services (Retail Shop for Building Materials and Metalwares) for a Period of Three Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary shop and services (retail shop for building materials and metalwares) for a period of three years at the application site (the Site) (**Plan A-1**). The Site falls within an area partly zoned “V” (about 49%) and partly zoned “AGR” (about 51%) on the draft Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/18. According to the Notes of the OZP, ‘shop and services’ (except that on the ground floor of a New Territories Exempted House) within “V” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board) whereas temporary use or development of any land or building not exceeding a period of three years within “AGR” zone requires planning permission from the Board notwithstanding that the use is not provided for under the Notes of the OZP. The Site is currently occupied by the applied use without valid planning permission.
- 1.2 According to the applicant’s submission, the development involves an existing two-storey building with gross floor area (GFA) of 736m<sup>2</sup> in the northwestern part of the

Site and three single-storey temporary structure/containers (building height of 2.6 to 8m) with a total GFA of 1,002.56m<sup>2</sup> in the southern and eastern parts of the Site for retail shop, storage and office uses (**Drawing A-1**). The operation hours are restricted between 7:00 a.m. and 9:00 p.m. daily. The Site is accessible via Sha Tau Kok Road – Lung Yeuk Tau (**Plan A-2**). Two private car parking spaces and one loading/unloading space for medium goods vehicle (11m x 3.5m) are provided within the Site. A layout plan is at **Drawing A-1**.

- 1.3 Part or whole of the Site is the subject of six previous planning applications for the same use which were approved by the Rural and New Town Planning Committee (the Committee). Details of 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 18.7.2022 | ( <b>Appendix I</b> )  |
| (b) Supplementary Planning Statement                        | ( <b>Appendix Ia</b> ) |
| (c) Supplementary Information received on 21.7.2022         | ( <b>Appendix Ib</b> ) |

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Supplementary Planning Statement at **Appendix Ia**, as summarized below:

- (a) the Site is the subject of previously approved applications and the applied use is identical to the last previous application No. A/NE-LYT/684 for the same retail shop use. The total change of GFA involved (+58.56m<sup>2</sup>) is minor due to the increasing of two small containers on the eastern side. Without major change in planning circumstances, it is considered that the application should be approved so that the applicant could continue to operate the temporary retail shop at the Site;
- (b) all the approval conditions under the previous planning approval (No. A/NE-LYT/684) have been complied with. Should the application be approved, the applicant would continue to maintain the existing site conditions and facilities well;
- (c) the applicant has been operating the retail shop for building materials and metalwares serving the locality for many years. The temporary retail shop could serve the local community and meet the local demands for building materials and metalwares given that there are limited retail shops selling building materials and metalwares in the neighbourhood;
- (d) the temporary retail shop is located in an area with warehouses, open storages and repairing workshops to the north of the Site across Sha Tau Kok Road, and is compatible with the surrounding environment. Environmental mitigation measures have been provided on the Site. The temporary structure with acoustic enclosures in the southern structure acts as a barrier for noise prevention; and
- (e) no adverse traffic, drainage and environmental impacts are 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. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the “Owner’s Consent/Notification” requirements are not applicable.

### **4. Previous Applications**

- 4.1 Part or whole of the Site is the subject of six previous applications (**Plan A-1**). All of them (No. A/NE-LYT/303, 345, 388, 490, 576 and 684) were submitted by the same applicant for similar retail shop and ancillary storage of building materials/renewal of planning approval for temporary retail shop use. These applications were approved with conditions by the Committee between 2005 and 2019 mainly on considerations that the retail shop uses would unlikely cause any significant adverse traffic, drainage and landscape impacts; concerned government departments had no adverse comment on/objection to the application; and the development complied 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. The latest application No. A/NE-LYT/684 was approved with conditions on 18.1.2019 by the Committee for a period of three years and that planning permission lapsed on 19.1.2022. All of the approval conditions have been complied with. Compared with the last application, there is a minor change in terms of GFA (+58.56m<sup>2</sup> or +3.5%) as two containers are added in the eastern part of the Site.
- 4.2 Details of the previous applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

### **5. Similar Application**

There is no similar application for temporary shop and services in the same “V” and “AGR” zones in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area.

### **6. The Site and Its Surrounding Areas (Plans A-1 to A-4b)**

- 6.1 The Site is:
- (a) paved and fenced and currently used as a retail shop selling building materials and metalwares without valid planning permission;
  - (b) a two-storey building is erected in the northwestern part of the Site, one large single-storey structure and two single-storey containers are found in the southern and eastern parts of the Site respectively; and
  - (c) accessible via Sha Tau Kok Road – Lung Yeuk Tau.

6.2 The surrounding areas have the following characteristics:

- (a) to the north is Kwan Tei River, across which are a Drainage Services Department's sewage pumping station and some village houses; and further north across Sha Tau Kok Road is a vehicle repair workshop;
- (b) to the east are fallow/active agricultural land, tree clusters and temporary domestic structures;
- (c) to the south are some domestic structures, vacant/unused land; and further south is the ex-Kwan Tei Public School which is currently vacant; and
- (d) to the west are a retail shop and warehouses, vehicle parks and temporary domestic structures.

## **7. Planning Intentions**

- 7.1 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.
- 7.2 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. Selected commercial and community uses serving the needs of the 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 Board.

## **8. Comments from Relevant Government Departments**

- 8.1 Apart from the government departments as set out in paragraph 8.2 below, other departments consulted have no objection to/no adverse comment on the application. Their general comments on the application and advisory comments are at **Appendices III** and **IV** respectively.
- 8.2 The following government departments have reservation/comments on the application:

### **Agriculture**

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

the Site falls within the "AGR" and "V" zones and is occupied by some structures. Agricultural infrastructures such as road access and water source are also 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 applied use is not supported from agricultural perspective.

### **District Officer's Comments**

#### **8.2.2 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 and the Vice-Chairman of Fanling District Rural Committee object to the application mainly on grounds of environmental pollution; concern on living quality and close proximity to domestic structures. The Chairman of Lung Shan Area Committee has no comment. Other Consultees, including the incumbent North District Councilor of N18 Constituency, the Resident Representative (RR) of San Tong Po, the Indigenous Inhabitant Representative (IIR) of San Tong Po, the RR of Kwan Tei and the IIRs of Kwan Tei did not reply.

### **9. Public Comments Received During Statutory Publication Period (Appendix V)**

On 26.7.2022, the application was published for public inspection. During the statutory public inspection period, five public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The remaining four comments from the Chairman, the First Vice-Chairman and the Vice-Chairman of Fanling District Rural Committee and an individual objects to the application mainly on grounds of possible environmental pollution; concern on living quality and close proximity to domestic structures.

### **10. Planning Considerations and Assessments**

10.1 The application is for temporary shop and services (retail shop for building materials and metalwares) for a period of three years in area zoned partly "V" and partly "AGR" on the OZP. The planning intention of "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. Other commercial, community and recreational uses may be permitted on application to the Board whereas the planning intention for "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. Although the applied use is not entirely in line with the planning intention of the "V" zone, the development could serve the local villagers/residents for meeting the local needs for building materials and metalwares. DLO/N, LandsD advises that there is no Small House application at the Site. The applied use is also not in line with the planning intention of "AGR" zone and DAFC does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation. Nevertheless, the approval of the application on a temporary basis for a period of three years at the Site would not frustrate the long-term planning intention of the "AGR" zone as well as the "V" zone.

10.2 The temporary retail shop is considered not incompatible with the surrounding land uses which are rural in character comprising village houses, temporary structures, tree clusters and farmland. Significant adverse impact arising from the temporary retail shop on the existing landscape resources is not anticipated. As the temporary retail shop use has been approved by the Committee since 2009, C for T has no comment on the application from the traffic engineering point of view. Given the use, facilities and site layout of the current

application are largely similar to those previous applications and the mitigation measures would continue to be fully implemented and maintained by the applicant, it is expected that the applied use will unlikely cause environmental impacts to nearby sensitive receivers. In this regard, DEP has no objection to the application. Other government departments consulted, including D of FS, CE/C of WSD and CE/MN of DSD, have objection to or no adverse comment on the application.

- 10.3 The Site, in whole or in part, is the subject of six previously approved applications for similar temporary retail shop and ancillary storage of building materials / renewal of planning approval for temporary retail shop use as stated in paragraph 4 above. The last application No. A/NE-LYT/684 for the same use was approved with conditions on 18.1.2019 for a period of three years by the Committee and that planning permission lapsed on 19.1.2022. All of the approval conditions have been complied with. The current application is slightly different from the last application as stated in paragraph 4.1 above. There has been no major change in the planning circumstances of the area since the approval of the previous applications.
- 10.4 Regarding the local and public comments as detailed in paragraphs 8.2.2 and 9 above respectively, government departments' comments and planning assessments above are relevant.

## **11. Planning Department's Views**

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the local and public comments mentioned in paragraphs 8.2.2 and 9 above, 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 9.9.2025. The following conditions of approval and advisory clauses are suggested for Members' reference:

### **Approval Conditions**

- (a) no operation between 9:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the environmental mitigation measures implemented on the Site, as proposed by the applicant, shall be maintained properly at all times during the approval period;
- (c) the submission of a condition record of the existing drainage facilities within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 9.12.2022;
- (d) the existing drainage facilities implemented on the Site shall be maintained properly at all times during the planning approval period;
- (e) 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 9.3.2023;

- (f) in relation to (e) 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 9.6.2023;
- (g) the submission of run-in/out proposal within 6 months from the from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 9.3.2023;
- (h) in relation to (g) above, the implementation of run-in/out proposal within 9 months from the from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 9.6.2023;
- (i) if any of the above planning conditions (a), (b) 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; and
- (j) if any of the above planning conditions (c), (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.

#### Advisory Clauses

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

- 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 "AGR" zone, which 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. There is no strong planning justification in the submission for a departure from the planning intention.

## **12. Decision Sought**

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the 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**  
**Appendix Ia**  
**Appendix Ib**

Application Form with Attachments received on 18.7.2022  
Supplementary Planning Statement  
Supplementary Information received on 21.7.2022

|                              |  |
|------------------------------|--|
| <b>Appendix II</b>           | Previous s.16 applications               |
| <b>Appendix III</b>          | Government Departments' General Comments |
| <b>Appendix IV</b>           | Recommended Advisory Clauses             |
| <b>Appendix V</b>            | Public Comments                          |
| <b>Drawing A-1</b>           | Site Layout Plan                         |
| <b>Plan A-1</b>              | Location Plan                            |
| <b>Plan A-2</b>              | Site Plan                                |
| <b>Plan A-3</b>              | Aerial Photo                             |
| <b>Plans A-4a &amp; A-4b</b> | Site Photos                              |

**PLANNING DEPARTMENT  
SEPTEMBER 2022**