

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/771

<u>Applicants</u>	: Joymax International Enterprise Limited and Mr. WAN Chin Wai Wilson represented by Glister Engineering Consultants Company
<u>Site</u>	: Lots 1583 S.B to 1583 S.R and 1583 RP in D.D. 76, Sha Tau Kok – Ma Mei Ha, Fanling, New Territories
<u>Site Area</u>	: About 1,037.76 m ²
<u>Lease</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>	: “Agriculture” (“AGR”)
<u>Application</u>	: Temporary Public Vehicle Park (Excluding Container Vehicle) for a Period of Three Years

1. The Proposal

- 1.1 The applicants seek planning permission for a temporary public vehicle park (excluding container vehicle) for a period of three years at the application site (the Site) (**Plan A-1**). The Site is zoned “AGR” on the draft Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/18. 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 currently used for the applied use without planning permission.
- 1.2 According to the applicants’ submission, 29 parking spaces (2.5m x 5m each) for private vehicles and a guard room of about 6.25m² will be provided on the Site (**Drawing A-1**). The vehicle park will operate all year round for nearby villagers. The Site is accessible via a local track leading to Sha Tau Kok Road – Ma Mei Ha (**Plan A-1**).
- 1.3 In support of the application, the applicants have submitted the following documents:
 - (a) Application form with attachments received on 10.8.2022 (**Appendix I**)
 - (b) Supplementary Information (SI) received on 12.8.2022 (**Appendix Ia**)

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in the Part 7 at **Appendix I** and SI at **Appendix Ia**, as summarized below:

- (a) the application is supported by local villagers as the temporary vehicle park could alleviate the shortage of parking spaces in the village;
- (b) no land filling will be involved;
- (c) the application is temporary in nature; and
- (d) the approval conditions imposed will be strictly followed should the application be approved.

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

The applicants are the sole “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to any enforcement action. The Site will be kept monitoring according to the established procedures.

5. Previous Application

- 5.1 Part of the Site is the subject of a previous application (No. A/NE-LYT/642) submitted by one of the applicants under the current application for Small House development. The application was rejected by the Rural and New Town Planning Committee (the Committee) on 22.12.2017.
- 5.2 Details of the previous application are summarized at **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are seven similar applications (No. A/NE-LYT/645, 691, 698, 699, 712, 741 and 749) for temporary public vehicle park within the same “AGR” zone in the Lung Yeuk Tau and Kwan Tei South area over the past five years.
- 6.2 Among them, two applications (No. A/NE-LYT/698 and 699) were rejected by the Committee in July 2019 mainly on the grounds that the applicants failed to demonstrate that the developments would not cause adverse traffic impact on the surrounding areas.
- 6.3 The remaining five applications (No. A/NE-LYT/645, 691, 712, 741 and 749) involving three sites were approved by the Committee between July 2018 and September 2021 mainly on considerations that the developments would unlikely cause any significant adverse traffic impacts on surrounding areas and that relevant departments had no adverse comments on the developments; and there were previous planning approvals granted on

the sites for the same use and the applicants had complied with all approval conditions. Further to submission of a traffic review report to address Transport Department's concerns, application No. A/NE-LYT/712 was approved despite of previous rejection under application No. A/NE-LYT/698.

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

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

7.1 The Site is:

- (a) hard-paved and currently used for the applied use without valid planning permission; and
- (b) accessible from Sha Tau Kok Road – Ma Mei Ha via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) the surrounding land uses are predominantly rural in character comprising village houses, active/fallow agricultural land, vegetated areas and tree clusters;
- (b) to the north and east are village houses of Kan Tau Tsuen, active/fallow agricultural land and vacant land;
- (c) to the west is active/fallow agricultural land; and
- (d) to the south are vegetated areas, vacant land and Tan Shan River.

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 Apart from the government departments as set out in paragraph 9.2 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 IV** and **V** respectively.

- 9.2 The following government departments have objection to/adverse comments on the application:

Traffic

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

- (a) has reservation on the application from traffic engineering perspective as the

applicants fail to provide the following information/assessment:

- (i) the applicants should substantiate the traffic generation and attraction from and to the Site as quoted in the application;
- (ii) the applicants should advise the traffic impact to the nearby road links and junctions under the worst case scenario, in particular the traffic impact to junctions of the village access and Sha Tau Kok – Ma Mei Ha section;
- (iii) the applicants should advise the traffic management measures to ensure road safety at the existing village access and demonstrate on a layout plan the adequacy of vehicle passing-bays along the village access to the Site;
- (iv) it is noted that the Site is not directly connected to Sha Tau Kok Road. The applicants shall advise the provision and management of pedestrian facilities to ensure pedestrian safety; and
- (v) the applicants should advise the management/control measures to be implemented to ensure no queuing of vehicles along the Sha Tau Kok Road – Ma Mei Ha section considering that the width of the village access entrance is only 4m.

Agriculture

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

- (a) does not support the application from agricultural perspective; and
- (b) the Site falls within an area zoned “AGR” and is abandoned. Agricultural activities are found in the vicinity and agricultural infrastructures such as water sources and a local track are available. Therefore, the Site is suitable for agricultural rehabilitation for various types of agricultural activities such as open field cultivation, plant nurseries, greenhouses etc.

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

On 19.8.2022, the application was published for public inspection. During the statutory public inspection period, four public comments were received. While the Chairman of Sheung Shui District Rural Committee has no comment on the application, three comments from two individuals and Kadoorie Farm and Botanic Garden Corporation object to the application mainly on the grounds that the applied use is not in line with the planning intention of the “AGR” zone; there are sufficient parking spaces in the villages; it is a ‘destroy first, develop later’ case; and the applied use will cause adverse traffic impact on the surrounding areas.

11. Planning Considerations and Assessments

- 11.1 The application is for a temporary public vehicle park (excluding container vehicle) for a period of three years at a Site falling within “AGR” zone on the OZP. The vehicle park 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 as the Site possesses potential for agricultural rehabilitation. There are no strong justifications in the submission to justify a departure from the planning application of the “AGR” zone, even on a temporary basis.

- 11.2 The Site is located in an area of rural inland plain and settled valleys landscape character comprising village houses, farmlands, vegetated areas and tree clusters (**Plans A-2 and A-3**). The applied temporary public vehicle park is considered not entirely incompatible with the surrounding areas. CTP/UD&L of PlanD has no objection to the application from landscape planning perspective and advises that significant adverse impact on existing landscape resources within the Site arising from the applied use is not anticipated.
- 11.3 C for T has reservation on the application from traffic engineering perspective as the applicants fail to demonstrate that the development would not cause adverse traffic impact on the surrounding areas in that the applicants have to provide information including traffic impact to the nearby road links and junctions, and traffic management measures to ensure pedestrian safety, etc. DEP has no objection to the application as the Site will not involve parking of heavy goods vehicles nor container trucks, but advises that the applicants should follow the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses” to minimize any potential environmental impacts to the nearby residents. Other government departments consulted, including CE/MN of DSD, CE/C of WSD and D of FS, have no adverse comment on or no objection to the application.
- 11.4 There are seven similar applications within the same “AGR” zone over the past five years. Among them, five applications (No. A/NE-LYT/645, 691, 712, 741 and 749) were approved with conditions by the Committee between 2018 and 2021 mainly on the consideration that developments would not cause significant adverse traffic impacts on the surrounding areas. The remaining two applications (No. A/NE-LYT/698 and 699) were rejected by the Committee in 2019 mainly on the ground that the developments would generate adverse traffic impact on the surrounding areas. As the applicants fail to demonstrate that the applied use would not cause adverse traffic impact on the surrounding areas, the circumstances of the current application are similar to those rejected applications.
- 11.5 Regarding the local comments as detailed in paragraph 10 above, government departments’ comments and planning assessment above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments as detailed in paragraph 10 above, the Planning Department does not support the application for the following reasons:
 - (a) the development is not in line with the planning intention of the “AGR” zone which is to retain primarily 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 to justify a

departure from the planning intention, even on a temporary basis; and

- (b) the applicants fail to demonstrate in the submission that the development would not cause adverse traffic impact on the surrounding areas.

12.2 Alternatively, 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 23.9.2025. 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 or enter/exit 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) 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 23.3.2023;
- (d) in relation to (c) 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 23.6.2023;
- (e) in relation to (d) above, the implemented drainage facilities at the Site shall be maintained at all times during the planning approval period;
- (f) the submission of proposals for water supplies for firefighting 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 23.3.2023;
- (g) in relation to (f) above, the provision of water supplies for firefighting 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 23.6.2023;
- (h) if any of the above planning conditions (a), (b) 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;
- (i) if any of the above planning conditions (c), (d), (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; and
- (j) 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.

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 permission.
- 13.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.
- 13.3 Alternatively, 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.

14. Attachments

Appendix I	Application form with attachments received on 10.8.2022
Appendix Ia	SI received on 12.8.2022
Appendix II	Previous Application
Appendix III	Similar s.16 Applications within the same “AGR” zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area
Appendix IV	Government Departments’ General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2022**