

RNTPC Paper No. A/NE-LYT/825B
For Consideration by the
Rural and New Town
Planning Committee
on 6.9.2024

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

APPLICATION NO. A/NE-LYT/825

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|---------------------------|---|--|
| <u>Applicant</u> | : | Daily Life Construction & Engineering Company Limited (達利來建築工程有限公司) |
| <u>Site</u> | : | Lot 896 RP (Part) in D.D. 83, Ma Liu Shui San Tsuen, Fanling, New Territories |
| <u>Site Area</u> | : | About 705m ² |
| <u>Lease</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/19 |
| <u>Zoning</u> | : | “Residential (Group C)” (“R(C)”) |
| <u>Application</u> | : | Proposed Temporary Public Vehicle Park (PVP) (Excluding Container Vehicle) and Shop and Services for a Period of Three Years |

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary PVP (excluding container vehicle) and shop and services for a period of three years at the application site (the Site), which falls within an area zoned “R(C)” on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/19 (**Plan A-1**). According to the Notes of the OZP, ‘PVP (Excluding Container Vehicle)’ and ‘Shop and Services’ are Column 2 uses in the “R(C)” zone, which require planning permission from the Town Planning Board (the Board). The Site is paved, fenced-off, currently mostly vacant and occasionally used for parking of vehicles (**Plan A-4**).
- 1.2 The Site, with an ingress/egress in its western part, abuts Lung Ma Road to the west and Hai Wing Road to the south (**Plan A-2**). According to the applicant, the proposed use is for a temporary PVP and a bicycle product store. Three single-storey temporary structures with building heights ranging from 3m to 4m and total floor area of about 168m² are proposed at the Site for shop and services, washrooms and meter room (**Drawing A-1**). Seven parking spaces for private cars (5m (L) x 2.5m (W) each) are proposed at the southeastern portion of the Site. Whilst the operation hours of the proposed shop and services use are from 9:00 a.m. to 8:00 p.m. daily (including public holidays), the proposed PVP would be

operated 24 hours daily. No dismantling, maintenance, repairing, cleaning, paint-spraying or workshop-related activity will be carried out at the Site. Sufficient manoeuvring space will be provided within the Site and there will be no queuing or waiting of vehicle on the public road. No medium or heavy goods vehicles exceed 5.5 tonnes, including container tractors/trailers, will be allowed to enter and park at the Site. To address the sight line problem at the junction of Lung Ma Road/Hai Wing Road, improvement measures such as visually permeable fence wall at the southwestern portion of the Site are proposed for a safer pedestrian environment of the area (**Appendices Ia** and **Ie**). The layout plan submitted by the applicant is shown in **Drawing A-1**.

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

- (a) Application Form with Supplementary Information (SI) (**Appendix I**)
received on 1.3.2024
- (b) Further Information (FI) received on 5.4.2024[^] (**Appendix Ia**)
- (c) FI received on 22.4.2024[^] (**Appendix Ib**)
- (d) FI received on 7.5.2024[^] (**Appendix Ic**)
- (e) FI received on 9.7.2024[#] (**Appendix Id**)
- (f) FI received on 19.8.2024[^] (**Appendix Ie**)

accepted but not exempted from the publication and recounting requirements

^ accepted and exempted from the publication and recounting requirements

1.4 On 19.4.2024 and 21.6.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for two months each as requested by the applicant.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form, SI and FIs at **Appendices I** to **Ie** as summarized below:

- (a) the application is for a temporary bicycle product store and PVP to serve customers including the nearby residents;
- (b) the proposed use is temporary in nature, which would not frustrate the long-term planning intention of the “R(C)” zone;
- (c) a traffic review was submitted in support of the application, which demonstrates that the proposed use will not generate significant traffic impacts. With the provision of traffic management measures, significant adverse traffic impacts generated by the proposed use is not anticipated;
- (d) the proposed use is not incompatible with the surrounding areas and would not induce significant adverse environmental, drainage and landscape impacts on the surroundings; and
- (e) there are similar applications (No. A/NE-LYT/775, 806 and 820) for PVP approved by the Committee in the vicinity of the Site.

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. 31B) by posting site notice and sending notice to the Fanling District Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is subject to planning enforcement action (No. E/NE-LYT/279) against unauthorized development (UD) involving shop and services and parking of vehicles (**Plan A-2**). Enforcement Notice (EN) was issued on 21.11.2023 requiring discontinuation of the UD by 21.1.2024. As the requirement of the EN was not complied with upon expiry of the EN, prosecution action is being considered by the Planning Authority.

5. **Previous Applications**

- 5.1 The Site is the subject of two previous applications (No. A/NE-LYT/380 and 421) submitted by a different applicant for minor relaxation of plot ratio for permitted house development and temporary workshop use respectively. The applications were rejected by the Committee in 2008 and 2010 respectively and their considerations are not relevant to the current application which involves different use.
- 5.2 Details of the applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

6. **Similar Applications**

- 6.1 While there is no similar application for temporary shop and services, there were four similar applications (No. A/NE-LYT/752, 775, 806 and 820) involving three sites for temporary PVP/private vehicle park within/straddling the same “R(C)” zone on the OZP in the vicinity of the Site in the past five years. They were all approved with conditions by the Committee between 2021 and 2024 mainly on the considerations that the applied use would not frustrate the long-term planning intention of the area; it was not incompatible with the surrounding areas; and no significant adverse impact from the applied use was anticipated.
- 6.2 Details of the similar applications are summarized at **Appendix III** and the locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) paved, fenced-off, currently mostly vacant and occasionally used for parking of vehicles; and
- (b) accessible via Lung Ma Road leading to Sha Tau Kok Road – Lung Yeuk Tau.

7.2 The surrounding areas mainly comprise village house, temporary domestic structures, warehouses, workshops and vacant land. To the immediate north is Queen's Hill substation and Queen's Hill Sewage Pumping Station. To the east across Hai Wing Road is Ma Liu Shui San Tsuen. To the further southeast is the Queen's Hill public housing development zoned "Residential (Group A)".

8. Planning Intention

The planning intention of the "R(C)" zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

9. Comments from Relevant Government Departments

9.1 Apart from the government department as set out in paragraph 9.2 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and recommended advisory clauses are provided at **Appendices IV** and **V** respectively.

9.2 The following government department has conveyed local views on the application:

District Officer's Comments

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

- (a) the Chairman, First Vice Chairman and Vice Chairman of Fanling District Rural Committee and the Indigenous Inhabitant Representative of Ma Liu Shui San Tsuen object to the application as the proposed use would induce traffic impact as well as higher risk in terms of pedestrian safety with higher chance of traffic accidents; and
- (b) a member of North District Council (NDC) supports the application. Six NDC members and the Chairman of Lung Shan Area Committee have no comment on the application. 16 members of NDC, the Resident Representative (RR) of Lung Yeuk Tau, three Indigenous Inhabitant Representatives of Lung Yeuk Tau and RR of Ma Liu Shui San Tsuen did not reply.

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

On 8.3.2024 and 16.7.2024, the application and the FI were published for public inspection. During the statutory public inspection periods, nine public comments were received. Among them, six object, two indicate no comment and one queries on the application. Six comments from the Chairman, First Vice Chairman and Vice Chairman of Fanling District Rural Committee object to the application mainly on the grounds that the proposed use would induce adverse traffic impacts and result in pedestrian safety issue in the area. Two comments from the Chairman of Sheung Shui District Rural Committee indicate no comment on the application. The remaining individual queries on the demand for car parking in the area.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary PVP (excluding container vehicle) and shop and services for a period of three years at the Site zoned “R(C)” on the OZP. Whilst the proposed use is considered not entirely in line with the planning intention of the “R(C)” zone, they could serve local residents’ needs on retail services and car parking facilities. Besides, there is no known development proposal at the Site. 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, being accessible via Lung Ma Road leading to Sha Tau Kok Road – Lung Yeuk Tau, is paved, fenced off and currently mostly vacant and occasionally used for parking of vehicles (**Plan A-4**). It is situated in an area of rural inland plains landscape character comprising village house, temporary domestic structures, warehouses, workshops and vacant land (**Plans A-2 and A-3**). The proposed use is considered not incompatible with the surrounding land use.
- 11.3 Concerned government departments consulted, including Commissioner for Transport (C for T), Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to or no comment on the application from traffic engineering, environmental, drainage and fire safety aspects respectively. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Should the planning application be approved, the applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize the possible environmental nuisance on the surroundings.
- 11.4 Regarding District Lands Officer/North of Lands Department’s concerns on the unauthorized structure erected on the Site which is subject to lease enforcement actions, the applicant will be advised to apply Short Term Waiver (STW) from Lands Department for regularization and the issue should be addressed separately in the land administration regime.
- 11.5 While there is no similar application for shop and services use in the vicinity of the Site, there are four previously approved applications for similar PVP/private vehicle park use within/straddling the same “R(C)” zone as detailed in paragraph 6. The planning circumstances of the current application are similar to those of

the approved applications. As such, approval of the current application is generally in line with the Committee's previous decisions.

- 11.6 Regarding the public comments and the local views/comments as conveyed by DO(N), HAD in paragraphs 10 and 9.2 respectively, government departments' comments and planning assessments above are relevant. Regarding the public comments on the pedestrian safety of the area, the applicant advises that visually permeable fence wall would be installed at the southwestern portion of the Site to improve the current sight line problem at the junction of Lung Ma Road/Hai Wing Road and create a safer pedestrian environment of the area. C for T has no comment on the relevant proposals.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments and the local views/comments as conveyed by DO(N), HAD in paragraphs 10 and 9.2 respectively, 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 three years until 6.9.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) 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 6.3.2025;
- (b) in relation to (a) above, the implementation of the drainage proposal 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 6.6.2025;
- (c) in relation to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) the submission of a 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 6.3.2025;
- (e) in relation to (d) above, the implementation of the fire service installations proposal 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 6.6.2025;
- (f) the implementation of the traffic management measures, as proposed by the applicant, within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 6.6.2025;

- (g) in relation to (f) above, the implemented traffic management measures shall be maintained at all times during the planning approval period;
- (h) if any of the above planning condition (c) or (g) 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 condition (a), (b), (d), (e) or (f) 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**.

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

the proposed use is not in line with the planning intention of the "R(C)" zone which is primarily for low-rise, low-density residential developments. There is no strong planning justification in the submission for a departure from the 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 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

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| Appendix I | Application Form with SI received on 1.3.2024 |
| Appendix Ia | FI received on 5.4.2024 |
| Appendix Ib | FI received on 22.4.2024 |
| Appendix Ic | FI received on 7.5.2024 |
| Appendix Id | FI received on 9.7.2024 |
| Appendix Ie | FI received on 19.8.2024 |
| Appendix II | Previous applications |
| Appendix III | Similar applications |
| Appendix IV | Government department's general comments |
| Appendix V | Recommended advisory clauses |

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| Appendix Va | “Requirements of Fireman’s Emergency Switch” issued by |
| | Fire Services Department |
| Appendix VI | Public comments |
| 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
SEPTEMBER 2024**