

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

**APPLICATION NO. A/NE-LYT/833**

<b><u>Applicant</u></b>	:	Shui Fat Properties Limited represented by Thomas Tsang Surveyors Limited
<b><u>Site</u></b>	:	Lot 1573 S.A (Part) in D.D. 76, Kan Tau Tsuen, Lung Yeuk Tau, New Territories
<b><u>Site Area</u></b>	:	About 480m <sup>2</sup>
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/19
<b><u>Zoning</u></b>	:	“Village Type Development” (“V”)
<b><u>Application</u></b>	:	Temporary Public Vehicle Park (Private Car and Light Goods Vehicle Only) for a Period of Three Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary public vehicle park (PVP) (private car and light goods vehicle (LGV) only) for a period of three years at the application site (the Site), which falls within an area zoned “V” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘PVP (excluding container vehicle)’ is a Column 2 use within the “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently used as the applied use without valid planning permission (**Plan A-4**).
- 1.2 The Site, with an ingress/egress at its southern-end, is accessible from Sha Tau Kok Road – Ma Mei Ha via a local access (**Plans A-1 and A-2**). According to the applicant, the applied use is for a temporary PVP serving the local villagers/residents. There are 16 parking spaces (5m (L) x 2.5m (W) each) including 12 for private cars and four for LGVs at the Site (**Drawing A-1**). The operation hours of the applied use are 24 hours daily (including public holidays). 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. Only private car/LGV as defined in the Road Traffic Ordinance is allowed to be parked/stored on or enter/exit the Site. To remind the user that only private car/LGV is allowed to be parked on or enter/exit the Site, a relevant notice board

has been erected at a prominent location of the Site. The layout plan submitted by the applicant is in **Drawing A-1**.

- 1.3 The Site is the subject of a previous application No. A/NE-LYT/725 submitted by the same applicant for the same use, which was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 5.2.2021 with validity up to 5.2.2024. Details of the previous application are set out in paragraph 5 below. Compared with the previously approved application, the site area/boundary and major development parameters (including the number of parking spaces) of the applied use remain the same, except minor change in the layout.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 26.6.2024 (**Appendix I**)
  - (b) Further Information (FI) received on 26.8.2024^ (**Appendix Ia**)
  - (c) FI received on 7.10.2024^ (**Appendix Ib**)
- ^ accepted and exempted from the publication and recounting requirements*
- 1.5 On 16.8.2024, the Committee of the Board agreed to the applicant's request to defer making a decision on the application for two months to address the departmental comments.

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

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

- (a) the application is for a temporary PVP to serve the local villagers/residents. It is on a temporary basis and its approval would not frustrate the long-term planning intention of the "V" zone;
- (b) there is no major change in the development parameters as compared to the previously approved application (No. A/NE-LYT/725). While all of the approval conditions under the previous application had been complied with, the existing fire service installations (FSIs) and drainage facilities implemented at the Site are properly maintained;
- (c) the applied use is not incompatible with the surrounding environment and would not induce adverse traffic, landscape and drainage impacts on the surroundings; and
- (d) the applied use could address the pressing parking need of the villagers and reduce road side parking to facilitate emergency vehicles passing through the village access.

## **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. Background**

The Site is currently not subject to any active planning enforcement action.

#### **5. Previous Application**

5.1 The Site is the subject of a previously approved application No. A/NE-LYT/725 submitted by the same applicant for the same use. The application was approved with conditions by the Committee on 5.2.2021 mainly on considerations that the proposed use would not frustrate the long-term planning intention of the “V” zone; it was not incompatible with the surrounding areas; and no significant adverse impact on the surrounding areas was anticipated. All the approval conditions have been complied with. The planning permission under application No. A/NE-LYT/725 was expired on 6.2.2024.

5.2 Details of the application is summarised at **Appendix II** and its location is shown on **Plan A-1**.

#### **6. Similar Application**

There is no similar application within the same “V” zone.

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

7.1 The Site is:

- (a) paved and currently used as the applied use without valid planning permission;
- (b) situated within the village proper of Kan Tau Tsuen and surrounded by village houses; and
- (c) accessible from Sha Tau Kok Road – Ma Mei Ha via the abutting local access to the south.

7.2 The surrounding areas mainly comprise village houses, parking of vehicles, vacant/unused land and active/fallow agricultural land. To the south of the Site is a cluster of village houses within the “Agriculture” zone with planning approvals.

#### **8. 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. Selected commercial and community uses serving the needs of the villagers and in support

of the village development are always permitted on ground floor of a New Territories Exempted House. Other commercial, community and recreational uses 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, other 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 III** and **IV** respectively.

9.2 The following government department objects to the application:

### **Land Administration**

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

- (a) the Site comprises Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. No right of access via Government land is granted to the Site;
- (b) the existing house on Lot 1573 S.A in D.D. 76 is covered by Building Licence No. 47/93 for non-industrial purposes and the remaining portion of the lot is for agricultural or garden purposes. The Site falls within the non-building portion of the lot;
- (c) the Site is already being used for the applied use under the application. Her office noted that no structure is proposed in the subject planning application but unauthorised structures are erected within Lot 1573 S.A in D.D. 76 not covered by the planning application as mentioned in paragraph 9.2(d) below;
- (d) the following irregularity not covered by the subject planning application has been detected by LandsD:

#### **Unauthorised structures within the said private lot not covered by the planning application**

LandsD has reservation on the planning application since there are unauthorised structures on the private lot not covered by the planning application which are already subject to lease enforcement actions according to case priority. The lot owner should rectify the lease breaches as demanded by LandsD;

- (e) unless and until the unauthorised structures not covered by the subject planning application are duly rectified by the lot owner, her office has objection to the application and it must be brought to the attention of the Board when they consider the application; and
- (f) there is no Small House application received for the Site.

## **10. Public Comments Received During Statutory Publication Period**

On 5.7.2024, the application was published for public inspection. During the statutory public inspection period, five public comments were received (**Appendix V**). Whilst a member of North District Council indicates no comment on the application, the Chairman and the First Vice-Chairman of Fanling District Rural Committee, the Chairman of Lung Shan Area Committee and an individual objects to/raises concern on the application mainly on grounds that the applied use would induce adverse impacts on existing traffic condition and result in pedestrian safety issue; and the applied use would result in noise nuisance to the surrounding areas.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for temporary PVP (private cars and LGVs only) for a period of three years at the Site zoned “V” on the OZP. Whilst the applied use is not entirely in line with the planning intention of the “V” zone where land is primarily intended for development of Small Houses by indigenous villagers, the applicant advises that it could help to serve the parking needs of the local villagers/residents. Besides, DLO/N, LandsD advises that there is no Small House application received for the Site. In this regard, it is considered that approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The Site, being accessible from Sha Tau Kok Road – Ma Mei Ha via the abutting local access to the south, is situated within the village proper of Kan Tau Tsuen and surrounded by village houses (**Plans A-3 and A-4**). The applied use is considered not incompatible with the surrounding land uses which are predominated by village houses, parking of vehicles, vacant/unused land and active/fallow agricultural land.
- 11.3 Concerned government departments consulted, including the Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) and Director of Fire Services (D of FS) have no objection to or no comment on the application from traffic, 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 minimise the possible environmental nuisance on the surroundings.
- 11.4 Regarding DLO/N, LandsD’s concern on the unauthorised structure erected outside the Site which is subject to lease enforcement actions, the applicant will be advised to liaise with LandsD to deal the land issue separately under the land administration regime.
- 11.5 The Site is the subject of a previously approved application No. A/NE-LYT/725 submitted by the same applicant for the same use with the same development parameters as detailed in paragraph 5.1 above. Whilst all the approval conditions have been complied with, the planning permission lapsed on 6.2.2024. In

support of the current application, the applicant has submitted drainage and FSIs proposals with corresponding condition records of the existing drainage facilities and certificate of fire service installations and equipment (FS251), which are considered acceptable by CE/MN, DSD and D of FS respectively. The planning circumstances of the current application are similar to that of the previously approved application. As such, approval of the current application is generally in line with the Committee's previous decision.

- 11.6 Regarding the adverse public comments as detailed in paragraph 10 above, the government departments' comments and the 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 public comments mentioned in paragraph 10 above, 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 25.10.2027. The following conditions of approval and advisory clauses are suggested for Members' reference:

### Approval Conditions

- (a) the existing drainage facilities on the site shall be maintained at all times during the planning approval period; and
- (b) if the above planning condition (a) 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.

### Advisory Clauses

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

- 12.3 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 provide land primarily for development of Small Houses by indigenous villagers. There is no strong planning justification in the submission for a departure from such 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**

<b>Appendix I</b>	Application Form with Attachments received on 26.6.2024
<b>Appendix Ia</b>	FI received on 26.8.2024
<b>Appendix Ib</b>	FI received on 7.10.2024
<b>Appendix II</b>	Previous Application
<b>Appendix III</b>	Government Departments' General Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Appendix IVa</b>	"Requirements of Fireman's Emergency Switch" issued by Fire Services Department
<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>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
OCTOBER 2024**