

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/NE-LYT/662

- Applicant** : Win Alliance Investment Limited
- Site** : Lot 1511 RP (Part) in D.D. 83, Wing Ning Wai, Fanling, New Territories
- Site Area** : 1,776.3 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
- Zoning** : “Agriculture” (“AGR”)
- Application** : Renewal of Planning Approval for Temporary Public Vehicle Park for Private Cars and Light Goods Vehicles for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to continue using the application site (the Site) for temporary public vehicle park for private cars and light goods vehicles for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “AGR” on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/17. According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 years within the “AGR” zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for in terms of the OZP.
- 1.2 The Site is the subject of 8 previous planning applications (No. A/DPA/NE-LYT/82, A/NE-LYT/256, 302, 317, 335, 394, 462 and 560) and amongst which Applications No. A/NE-LYT/256, 335, 394, 462 and 560 were for the same applied use as the current application. The last application No. A/NE-LYT/560 for the same use was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board for a period of 3 years on 8.5.2015. All the approval conditions with specified time limits have been complied with and the permission is valid up to 19.6.2018.
- 1.3 The Site is accessible via Sui Wan Road leading to Sha Tau Kok Road – Lung Yeuk Tau. The applicant proposes to provide monthly parking of 20 private cars and 20 light goods vehicles at the Site. There are two container-converted structures (each measuring 6.1m

(L) x 2.44m (W) x 2.59m (H)) for car park offices use within the Site. There will be staff on duty from 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays. The applicant submitted a layout plan in supporting the application (**Drawing A-1**).

- 1.4 The major development parameters of the current application and the last approved application are the same and as follows:

Major Development Parameters	Last Approved Application (A/NE-LYT/560)	Current Application (A/NE-LYT/662)
Site Area	About 1,776.3 m ²	
Applied Use	Temporary Public Vehicle Park for Private Cars and Light Goods Vehicles	
No. of Parking Spaces	20 Private Cars and 20 Light Goods Vehicles	
No. of Structures	2 Container-converted Structures (each measuring 6.1m (L) x 2.44m (W) x 2.59m (H) for Car Park Offices Use)	
Operation Hours	Staff on Duty from 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays	

- 1.5 Compared with the last approved application (No. A/NE-LYT/560), the current application is submitted by the same applicant for the same use at the same site with the same development parameters.

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

- (a) Application Form with attachments received on 24.4.2018 (**Appendix I**)
- (b) Further Information received on 31.5.2018 providing (**Appendix Ia**) information on the site management/control for vehicles entering to and exiting from the Site and manoeuvring within the Site to ensure the safety of pedestrians and users and to undertake to widen the vehicular gate to 7.3m in width

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 8 of the Application Form at **Appendix I**. They can be summarized as follows:

- (a) there has been no salient change in planning circumstances within the Site and no change in the environment of surrounding areas since the temporary approvals under Applications No. A/NE-LYT/335, 394, 462 and 560 were granted on 7.7.2006, 19.6.2009, 1.6.2012 and 8.5.2015 respectively;
- (b) all the approval conditions of the previous planning approvals were complied with to the satisfaction of relevant Government departments and the concerned facilities are under proper maintenance. The application for renewal of planning approval would not result in adverse landscape, environmental, traffic and drainage impacts to the surrounding area;

- (c) land resources can be better utilized by revitalizing the Site for temporary public vehicle park to address the demand of the local residents for parking spaces; and
- (d) illegal dumping and unauthorized development in rural areas can be prevented if the renewal application is approved.

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 enforcement case.

5. Town Planning Board Guidelines

The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34B) are relevant to the application. The relevant assessment criteria are at **Appendix II**.

6. Previous Applications

- 6.1 The Site is involved in 8 previous applications (No. A/DPA/NE-LYT/82, A/NE-LYT/256, 302, 317, 335, 394, 462 and 560) and amongst which Applications No. A/NE-LYT/256, 335, 394, 462 and 560 were for the same applied use as the current application.
- 6.2 Application No. A/DPA/NE-LYT/82 for proposed residential development with recreational facilities was approved with conditions on review by the Board on 13.10.1995. The planning permission was subsequently renewed for five times and lapsed on 13.10.2007.
- 6.3 Application No. A/NE-LYT/302 for temporary public vehicle parking and loading and open packaging for recycled products for a period of 3 years was rejected by the Committee on 27.5.2005 mainly on the grounds that the development did not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses in that it was not compatible with the rural village character of the surrounding areas and there was no previous planning approval granted to the application site for vehicle parking and loading and open packaging for recycled products; and no technical assessments/proposal had been submitted to demonstrate that the development would not generate adverse traffic, drainage and environmental impacts on the surrounding area.
- 6.4 Application No. A/NE-LYT/317 for temporary open storage for plastic tube and construction articles for a period of 3 years was rejected by the Committee on 3.2.2006 on the grounds that the development did not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses in that no previous planning approval for open storage use had been given to the site; and no technical assessments/proposals had been submitted to demonstrate that the development would not generate adverse traffic and environmental impacts on the surrounding area.

- 6.5 The remaining 5 planning applications (No. A/NE-LYT/256, 335, 394, 462 and 560) were for the same applied use for a period of 3 years as the current application. All of them were approved by the Committee between 2003 and 2015 mainly on considerations that the development was not incompatible with the surrounding land uses; the development was unlikely to cause any significant adverse impacts on the surrounding areas; relevant Government departments had no adverse comment on the application; the traffic concern raised by local villagers could be addressed by appropriate approval conditions on provision of traffic improvement measures; previous application for the same applied use on the site had been approved and/or the approval conditions under the previously approved cases had been complied with.
- 6.6 Compared with the last approved application (No. A/NE-LYT/560), the current application is submitted by the same applicant for the same use at the same site with the same development parameters.
- 6.7 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

7. **Similar Applications**

- 7.1 There are two similar applications (Nos. A/NE-LYT/577 and 598) for temporary public vehicle park within the same “AGR” zone in the vicinity of the Site. These two applications were approved with conditions by the Committee on 20.11.2015 and 29.7.2016 respectively for a period of 3 years mainly on the considerations that the development was not incompatible with the surrounding land uses and would unlikely cause any significant adverse impacts on the surrounding areas. Application No. A/NE-LYT/577 was subsequently revoked on 20.9.2016 due to non-compliance with an approval condition on submission of landscape proposal.
- 7.2 Details of the applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.

8. **The Site and Its Surrounding Areas** (Plans A-1 and A-2, aerial photo on **Plan A-3** and site photos on **Plan A-4**)

- 8.1 The Site is:
 - (a) flat, paved and fenced off;
 - (b) currently used for the applied use with planning permission granted under application No. A/NE-LYT/560; and
 - (c) accessible via Sui Wan Road leading to Sha Tau Kok Road – Lung Yeuk Tau.
- 8.2 The surrounding areas have the following characteristics:
 - (a) to the east is used for storage of construction materials and a plant nursery; to the further northeast is used for lorry parking and a mix of temporary domestic structures and vacant land;
 - (b) to the immediate south is used for open storage of construction materials, domestic

structures and vacant temporary structures; to its further south is the “Village Type Development” zone of recognized villages (covering Wing Ning Wai, Wing Ning Tsuen, Tung Kok Wai, Ma Wat Tsuen, Ma Wat Wai, Tsz Tong Tsuen and Lo Wai);

- (c) to the west are a mix of domestic structures, vacant land and parking of vehicles; and
- (d) to the north is domestic use, and further north are warehouse, vehicle repair workshop and Lung Yeuk Tau Vegetable Collection Point.

9. Planning Intention

The planning intention of the “AGR” zone in the Lung Yeuk Tau and Kwan Tei South area 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.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application received are summarised as follows:

Land Administration

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

- (a) the Site comprises an Old Schedule Lot held under the Block Government Lease (demised for agricultural use) without any guaranteed right of access;
- (b) there are unauthorised structures erected on the lot concerned, which are not acceptable under the Lease concerned and his office reserves the right to take necessary lease enforcement actions against the aforesaid structures; and
- (c) if the planning application is approved, the owner of the lot concerned shall apply to his office for a Short Term Waiver (STW) to regularize the illegal structures erected on the Site, which will be considered by Government in its landlord’s capacity and there is no guarantee that it will be approved. If the STW is approved, the 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 waiver fee and administrative fee as considered appropriate by his office.

Traffic

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

In view of the traffic management proposals submitted in the further information (**Appendix Ia**) by the applicant and the existing traffic conditions at the Site, it is considered that the application can be tolerated from the traffic

engineering point of view. The applicant should implement the traffic management proposals and widening of the vehicular gate as committed in the further information.

Environment

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

- (a) there is no environmental complaint case related to the Site received in the past three years; and
- (b) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.

Agriculture

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

the Site has been under the applied use for some years. As such, she has no strong view on the renewal application.

Drainage

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

- (a) he has no objection in-principle from the public drainage viewpoint; and
- (b) he has the following comments to the application:
 - (i) submit a condition record of the existing drainage facilities on site as previously implemented on the same site in the application No. A/NE-LYT/560 to his satisfaction within three months from the date of commencement of the renewed planning approval; and
 - (ii) maintain those existing drainage facilities properly and rectify those facilities if they are found inadequate/ineffective during operation.

Building Matters

10.1.6 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) under the Buildings Ordinance (BO):

- (a) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO. There is no record of approval by the Building Authority for the structures existing at the site;

- (b) for UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO;
- (c) in connection with (a) above, the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)Rs) respectively; and
- (d) if the Site does not abut a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)Rs at the building plan submission stage.

Fire Safety

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

- (a) he has no in-principle objection to the application subject to fire service installations (FSIs) being provided to the satisfaction of D of FS; and
- (b) in addition, 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.

Landscape

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

- (a) comparing the aerial photo of 2015 (under the last application) with the latest photo of 2017, there is no significant change in the rural landscape character where the Site is located. It comprises village houses, scattered tree groups and some carparks. The proposed continuous use is not incompatible with the surrounding environment;
- (b) according to the site record photos dated 7.5.2018, the Site is used as a carpark. Trees, planted surrounding the Site under the previous approval condition, are in good condition and provide adequate screening and environmental enhancement. As the parking layout remains the same, adverse landscape impact arising from the proposed continuous use is not anticipated; and
- (c) in view of the above, she has no objection to the application from the landscape planning perspective. Should the application be approved by the Board, she would recommend "to properly maintain all existing trees throughout the approval period" as approval condition in the permission.

District Officer's Comments

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

he has consulted the locals concerned from 14.5.2018 to 28.5.2018. The incumbent North District Council (NDC) members of N18 Constituency cum the Indigenous Inhabitant Representative (IIR) of Lung Yeuk Tau supports the proposal as it would bring convenience to villagers. The Chairman of Fanling District Rural Committee objects to the proposal as the application would aggravate the existing traffic congestion and cause adverse environmental impacts to the surrounding areas. The remaining two IIRs and Resident Representative of Lung Yeuk Tau have no comment to the proposal.

10.2 The following Government departments have no objection to/comment on the application:

- (a) The Chief Highway Engineer/New Territories East, Highways Department;
- (b) Chief Engineer/Construction, Water Supplies Department; and
- (c) Project Manager (North), Civil Engineering and Development Department.

11. Public Comments Received During Statutory Publication Period

On 4.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, six public comments were received (**Appendix V**). Two of the public comments are from NDC members, with one supporting the application as it would bring convenience to villagers, another one having no comment on the application, and another one submitted by the Designing Hong Kong Limited not providing any views to the application. The other three public comments object to the application, one of which is from the Vice Chairman of Fanling District Rural Committee and another one from other individuals mainly considering that the application would aggravate the existing traffic congestion and cause adverse environmental impacts to the surrounding areas, whilst the remaining one from an individual opines that the application would result in inefficient land use as parking facilities should be operated with stacked system.

12. Planning Considerations and Assessments

12.1 The application is for renewal of the planning permission under previous application No. A/NE-LYT/560 for temporary public vehicle park for private cars and light goods vehicles at the Site zoned "AGR" on the OZP. The proposed use is not in line with the planning intention of the "AGR" zone, which is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and it is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. Nevertheless, as the Site has been under the applied use for some years, DAFC has no strong view on the application. The applied use on a temporary basis for 3 years would not jeopardize the long-term planning intention of "AGR" zone.

12.2 The applied use is not incompatible with the surrounding land uses which mainly comprise lorry parking/parking of vehicles, warehouse/storage, domestic structures and vacant land (**Plans A-2 and A-3**).

- 12.3 There has been no material change in planning circumstances of the Site and the surrounding areas since the previous temporary approval was granted. As explained above, the approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “AGR” zone, there would be no adverse planning implications arising from the renewal of the planning approval. Furthermore, all the approval conditions under the previous approval have been complied with and the 3-year approval period sought is of the same timeframe as the previous approval. In view of the above, the application is considered generally in line with the TPB PG-No. 34B.
- 12.4 Government departments consulted, including C for T, DEP, CE/MN, DSD, D of FS, CTP/UD&L, PlanD have no objection or adverse comment on the application. Significant adverse traffic, environmental, drainage and landscape impacts on the surrounding areas are not envisaged. There has been no environmental complaint case concerning the Site received in the past 3 years. To minimize any potential environmental nuisances and to address the technical requirements of concerned Government departments, appropriate approval conditions are recommended in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will 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 any potential environmental impacts.
- 12.5 The Committee has approved five previous applications (Nos. A/NE-LYT/256, 335, 394, 462 and 560) for the same use at the Site and two other similar applications in the same “AGR” zone. Compared with the last approved application (No. A/NE-LYT/560), the current application is submitted by the same applicant for the same use at the same site with the same development parameters. Approval of the renewal application is in line with the Committee’s previous decisions.
- 12.6 There are six public comments received during the statutory publication period, one supporting and the other two having no comment on/providing no views to the application, and three of them objecting to the application on the grounds as summarized in paragraph 11 above. The planning considerations and assessments in the above paragraphs are relevant. Regarding the proposal that parking facilities should be operated with stacked system, it should be noted that the Site is a private lot in “AGR” zone, on which the development will be effected principally through private sector initiatives.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department considers that the temporary public vehicle park for private cars and light goods vehicles could be tolerated for a further period of 3 years.
- 13.2 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 from **20.6.2018 to 19.6.2021**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no vehicles other than private cars and light goods vehicles not exceeding 5.5 tonnes, as defined in the Road Traffic Ordinance, are allowed to be parked within the Site during the planning approval period;
- (b) a notice should be posted at a prominent location of the Site to indicate that no medium or heavy goods vehicle (i.e. exceeding 5.5 tonnes) including container trailers/tractors, as defined in the Road Traffic Ordinance, is allowed to be parked/stored on the Site at any time during the planning approval period;
- (c) the existing trees and landscape plantings on-site should be properly maintained in good condition at all times during the planning approval period;
- (d) the existing drainage facilities shall be properly maintained at all times during the planning approval period and rectified if they are found inadequate/ineffective during operation;
- (e) the implementation of the traffic management proposals and widening of the vehicular gate as committed by the applicant within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by **20.12.2018**;
- (f) the submission of a condition record of the existing drainage facilities on the Site as previously implemented on the same Site in the Application No. A/NE-LYT/560 within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **20.9.2018**;
- (g) the submission of a fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **20.12.2018**;
- (h) in relation to (g) above, the implementation of the fire service installations proposal within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **20.3.2019**;
- (i) if any of the above planning conditions (a), (b), (c) 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 (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 VI**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the continual occupation of the Site for the development is not in line with the planning intention of the “AGR” zone in the Lung Yeuk Tau and Kwan Tei South area 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. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis; and
- (b) there are domestic dwellings in close proximity of the Site. The development may cause adverse environmental impacts on the local villagers. The applicant has failed to demonstrate that the development would not cause adverse environmental impacts on the surrounding area.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

Attachments

Appendix I	Application Form with Attachments received on 24.4.2018
Appendix Ia	Further Information received on 31.5.2018
Appendix II	Relevant Extract of Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34B)
Appendix III	Previous Applications covering the Application Site
Appendix IV	Similar Applications within the Same “AGR” Zone in the vicinity of the Site on the Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan No. S/NE-LYT/17
Appendix V-1 to 6	Public Comments Received During Statutory Publication Period
Appendix VI	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-4a and A-4b	Site Photos