

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

APPLICATION NO. A/NE-LYT/747

- 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 until 19.6.2024

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to continue using the application site (the Site) for temporary public vehicle park for private cars and light goods vehicles for a further period of three 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 three years within the “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 with valid permission until 19.6.2021.
- 1.2 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. A plan showing the site layout submitted by the applicant is at **Drawing A-1**.
- 1.3 The Site is the subject of eight previous applications. The last application No. A/NE-LYT/662 was submitted by the same applicant as the current application. All approval conditions of that application have been complied with and the planning permission is valid until 19.6.2021. Compared with the last application, the current application is for the same use, and the development parameters remain unchanged.

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

- (a) Application Form with attachments received on 12.4.2021 (Appendix I)
- (b) Further information (FI) received on 21.5.2021 (Appendix Ia)
accepted and exempted from publication

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I** and **Ia** respectively. 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, 560 and 662 were granted between 2006 to 2018;
- (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 renewal application would not result in adverse landscape, environmental, traffic and drainage impacts to the surrounding areas;
- (c) no activities other than the applied use will be carried out on the Site;
- (d) all existing trees within the Site would be properly maintained; and
- (e) approval of the renewal application would render a better utilization of land resources on the Site, which may otherwise be kept idle.

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. **Town Planning Board Guidelines**

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

5. **Previous Applications**

- 5.1 The Site is the subject of eight previous applications (No. A/NE-LYT/256, 302, 317, 335, 394, 462, 560 and 662) and amongst which applications No. A/NE-LYT/256, 335, 394, 462, 560 and 662 were for the same applied use as the current application.
- 5.2 Application No. A/NE-LYT/302 for temporary public vehicle park and open packaging for recycled products and application No. A/NE-LYT/317 for temporary open storage for plastic tube and construction articles were rejected by the Committee on 27.5.2005

and 3.2.2006 respectively mainly on the grounds that the applicant failed to demonstrate that the development would not generate adverse traffic, drainage and environmental impacts on the surrounding areas.

- 5.3 The remaining six planning applications (No. A/NE-LYT/256, 335, 394, 462, 560 and 662) were for the same applied use for a period of three years as the current application. They were approved by the Committee between 2003 and 2018 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 approval conditions under the previously approved application had been complied with. The last application No. A/NE-LYT/662 was submitted by the same applicant as the current application. All approval conditions of that application have been complied with and the planning permission is valid until 19.6.2021. Compared with the last application, the development parameters remain unchanged.
- 5.4 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are five similar applications (No. A/NE-LYT/577, 598, 689, 704 and 706) for temporary public vehicle park within the same “AGR” zone in the vicinity of the Site. These applications were approved with conditions by the Committee between 2015 and 2019 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.
- 6.2 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.

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

- 7.1 The Site is:
- (a) fenced off, flat and formed;
 - (b) currently used for the applied use with valid planning permission; and
 - (c) accessible via Sui Wan Road leading to Sha Tau Kok Road – Lung Yeuk Tau.
- 7.2 The surrounding areas have the following characteristics:
- (a) to the east is used for parking of vehicles, storage of construction materials and a plant nursery; to its further northeast is 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 car repairing workshop; to its further south are village houses;

- (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 is Lung Yeuk Tau Vegetable Collection Point.

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

Land Administration

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

- (a) the Site comprises a private lot which is Old Schedule lot held under the Block Government Lease (demised for agricultural use) without any guarantee of 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 rights to take necessary lease enforcement actions; 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 unauthorised structures erected on the Site. The application for STW 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

- 9.1.2 Comments of the Commissioner for Transport (C for T):

- considering the traffic flow generated from the renewal application is minimal, he has no in-principle objection to the renewal application.

Agriculture

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

- she has no strong view against the application for renewal of planning approval considering the previous applications for the same use as the current application were approved by the Board.

Environment

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

- (a) it is noted that the application will not involve parking of heavy goods vehicle nor container truck. The applicant is advised to follow the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses” (CoP) issued by DEP; and
- (b) there is no environmental complaint against the Site in the past three years.

Landscape

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

- (a) he has no objection to the application from the landscape planning point of view;
- (b) the Site is situated in an area of rural inland plains landscape character surrounded by temporary structures, village houses, scattered tree groups and carpark. Continuing the temporary public vehicle park use on the Site is considered not incompatible with the surrounding environment; and
- (c) given that there is no major public frontage along the Site boundary and further significant adverse landscape impacts arising from the renewal of planning approval for public vehicle park is not anticipated, it is considered not necessary to impose a landscape condition in the planning permission should the application be approved by the Board.

Drainage

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

- (a) he has no objection to the application from the public drainage viewpoint;
- (b) should the application be approved, conditions on the maintenance of the existing drainage facilities at the Site and the submission of a record of the existing drainage facilities on the Site should be recommended, to ensure that there will be no adverse drainage impact to the adjacent area due to the applied development. If the existing drainage system is found to be inadequate or ineffective during operation, the applicant is required to rectify the system to the satisfaction of the relevant government departments and also at his own cost;

- (c) the applicant is reminded to maintain his system properly and rectify any inadequacies or defects found during operation. In addition, the applicant shall be liable for and shall indemnify claims and demands arising out of damage or nuisance due to failure of the system; and
- (d) the Site is in an area where public sewerage connection is available.

Fire Safety

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

- he has no in-principle objection to the renewal application subject to fire service installations (FSIs) on the Site being maintained in efficient working order at all times.

Building Matters

9.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- there is no record of approval by the Building Authority for the structures existing at the Site. Detailed advisory comments under the Building Ordinance are appended in **Appendix VI**.

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

- (a) District Officer (North), Home Affairs Department (DO(N), HAD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Project Manager/North, New Development Office, Civil Engineering and Development Department (PM/N, CEDD); and
- (d) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD).

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

On 20.4.2021, the application was published for public inspection. During the statutory public inspection period, four public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The First Vice-Chairman, the Vice-Chairman of Fanling District Rural Committee, and an individual object to the application mainly on the grounds that the application would aggravate the existing traffic congestion and cause adverse environmental impacts and pedestrian safety concerns to the surrounding areas.

11. Planning Considerations and Assessments

11.1 The application is for the renewal of planning approval for temporary public vehicle park for private cars and light goods vehicles for a further period of three years at the Site zoned “AGR” on the OZP. The applied use is not in line with the planning intention of the “AGR” zone which is primarily to retain and safeguard 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. Since DAFC has no strong

view on the application, it is considered that approval of the renewal application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “AGR” zone.

- 11.2 The Site is the subject of eight previous applications. Of them, six (applications No. A/NE-LYT/256, 335, 394, 462, 560 and 662) were for the same use as the current application and they were all approved by the Committee between 2003 and 2018. For the last approved application (No. A/NE-LYT/662), all approval conditions have been complied with. Relevant Government departments consulted including CTP/UD&L, PlanD, C for T, D of FS, CE/MN of DSD and DEP, have no adverse comment on/objection to the renewal application. The applied use is unlikely to cause any significant adverse landscape, drainage, environmental and traffic impacts on the surrounding areas.
- 11.3 The application generally complies with the TPB PG-No. 34C on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ in that there has been no material change in planning circumstances since the approval of the previous applications; there are no major adverse departmental comments against the renewal application; all the approval conditions for the previous application have been complied with; and the approval period sought is not unreasonable.
- 11.4 There are five similar applications (No. A/NE-LYT/577, 598, 689, 704 and 706) for temporary public vehicle park within the same “AGR” zone in the vicinity of the Site. All applications were approved by the Committee between 2015 and 2019 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. There has been no major change in the planning circumstances for the area since the approval of the similar applications.
- 11.5 Regarding the public comments objecting to the application as detailed in paragraph 10 above, Government departments’ comments and 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 comment as detailed in paragraph 10, the Planning Department considers that the temporary use could be tolerated for a further period of 3 years.
- 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 further period of three years and **be renewed from 20.6.2021 to 19.6.2024**. 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 drainage facilities shall be properly maintained at all times during the planning approval period and rectified if they are found inadequate/ineffective during operation;
- (d) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (e) 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/662 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 20.9.2021;
- (f) 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
- (g) if the above planning condition (e) 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**.

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

- the continual occupation of the Site for the development is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good 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, 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 applicants.

14. Attachments

Appendix I	Application Form with attachments received on 12.4.2021
Appendix Ia	Further information received on 21.5.2021
Appendix II	Relevant Extract of TPB-PG No. 34C on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’
Appendix III	Previous Applications
Appendix IV	Similar s.16 Applications within same “AGR” zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area
Appendix V	Public Comments
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-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2021**