

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

**APPLICATION NO. A/NE-LYT/749**

<b><u>Applicant</u></b>	:	Supreme Style Limited
<b><u>Site</u></b>	:	Lot 1495 S.B RP in D.D. 76, Ng Uk Tsuen, Sha Tau Kok Road, Fanling, New Territories
<b><u>Site Area</u></b>	:	About 921.4 m <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/17
<b><u>Zoning</u></b>	:	“Agriculture” (“AGR”)
<b><u>Application</u></b>	:	Renewal of Planning Approval for Temporary Public Vehicle Park for Private Cars and Light Goods Vehicles for a Period of 3 Years until 20.7.2024

**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 uses or development of any land or buildings 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 with valid permission until 20.7.2021.
- 1.2 The Site is accessible from Sha Tau Kok Road – Ma Mei Ha (**Plan A-2**). According to the applicant, 34 private car and/or light goods vehicle parking spaces (5m × 2.5m each) are provided in the temporary public vehicle park. No structure will be erected on the Site. The operation hours are from 8:00 a.m. to 8:00 p.m. daily. A plan showing the site layout submitted by the applicant is at **Drawing A-1**.
- 1.3 The Site is the subject of five previous applications. The last application No. A/NE-LYT/645 was submitted by the same applicant as the current application. All the approval conditions under the last application have been complied with. Compared with the last

approved application, the number of parking spaces under the current application remains unchanged.

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

- (a) Application Form with attachments received on 4.5.2021 (Appendix I)
- (b) Supplementary Information received on 7.5.2021 (Appendix Ia)

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

The justifications put forth by the applicant in support of the application are detailed in Part 7 of the Application Form and Supplementary Information at **Appendices I & Ia** respectively. They can be summarised as follows:

- (a) the Site is currently used as a temporary public vehicle park for private cars and light goods vehicles, which is compatible with the surrounding environment;
- (b) there is a lack of parking spaces in the vicinity of the Site to serve the residents nearby;
- (c) the operation of the temporary public vehicle park will be the same as the last approved application No. A/NE-LYT/645, including number of parking spaces, types of vehicles to be parked and operation hours. All the approval conditions under the last application have been complied with; and
- (d) the existing fire service installations (FSIs), drainage facilities and peripheral planting at the Site will be maintained properly.

## 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**

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 this application. The relevant extract of the Guidelines is attached at **Appendix II**.

## 5. **Previous Applications**

- 5.1 The Site is the subject of five previous planning applications (No. A/NE-LYT/352, 414, 495, 556 and 645) for the same applied use as the current application since 2007.
- 5.2 Applications No. A/NE-LYT/352 and 414 were approved by the Committee in 2007 and 2010 respectively for a period of 3 years. Application No. A/NE-LYT/495 submitted by the same applicant as the current application was approved the Committee in 2013 for a

period of 3 years, but was subsequently revoked in 2014 due to non-compliance with approval conditions in relation to the submission and implementation of drainage proposal, and landscape and tree preservation proposal.

- 5.3 The remaining two applications (No. A/NE-LYT/556 and 645) for the same use submitted by the same applicant as the current application were approved by the Committee on 2.1.2015 and 20.7.2018 respectively mainly on the considerations that the Site had been used for the same use since 2007 which was not incompatible with the surrounding land uses and would unlikely to cause any significant adverse traffic, drainage, environmental and landscape impacts; and there was no adverse comment from relevant departments. For the last approved application No. A/NE-LYT/645, all approval conditions have been complied with and the permission is valid until 20.7.2021. Compared with the last approved application, the number of parking spaces under the current application remains unchanged.
- 5.4 Details of the previous applications are summarised 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/586, 691, 698, 699 and 712) involving three sites for temporary public vehicle park within the same “AGR” zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area.
- 6.2 Of them, two similar applications No. A/NE-LYT/586 and 691 involving the same site in close proximity of the Site for temporary public vehicle park (private cars, light goods vehicles and medium goods vehicles) or renewal of the same applied use were approved with conditions in May 2016 and May 2019 respectively mainly on the grounds that the development was not incompatible with the surrounding area and would unlikely to cause significant adverse impacts; and there was no adverse comment from relevant departments.
- 6.3 Applications No. A/NE-LYT/698 and 699 for proposed temporary public vehicle park (private car) were rejected by the Committee in July 2019 for the reasons that the developments were not in line with the planning intention of the “AGR” zone; and the applicants failed to demonstrate that the proposed developments would not cause adverse traffic impact on the surrounding areas. Application No. A/NE-LYT/712 for temporary public vehicle park (private car), involving the same site as the rejected application No. A/NE-LYT/698, was subsequently approved by the Committee in November 2019 mainly on the considerations that the applicant demonstrated that the development would not induce additional adverse traffic impact on the surrounding road network and affect pedestrian safety; and there was no adverse comment from relevant departments.
- 6.4 Details of these similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

## **7. 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)**

- 7.1 The Site is:

- (a) flat, hard paved and partly fenced off;
- (b) currently occupied by the applied use with valid planning permission; and
- (c) accessible from Sha Tau Kok Road – Ma Mei Ha.

7.2 The surrounding areas have the following characteristics:

- (a) predominantly rural in character intermixed with car parks / parking of vehicles, domestic structures, vacant/unused land, orchard and active agricultural land;
- (b) to the immediate southeast is Tan Shan River;
- (c) to the southwest are car parks / parking of vehicles, vehicle repair workshop, storage use and a temporary adventure training centre; and
- (d) to the north across Sha Tau Kok Road are the village proper of Hung Leng Village, car park / parking of vehicles and a logistics centre.

## 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 summarised as follows:

### **Land Administration**

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

- (a) the application lot is an Old Schedule lot held under the Block Government Lease (demised for agricultural use) without any guarantee of right of access. The applicant should make his own arrangement for acquiring access to the application lot, and there is no guarantee that any adjoining Government Land (GL) (**Plan A-2**) will be allowed for vehicular access to the Site for the applied use;
- (b) the actual occupation boundary does not tally with the Site. It is noted that a portion of GL adjoining the Site is being occupied without prior approval from her office. Her office reserves the right to take land control action against the irregularities. Moreover, some fencings have been extended from the southern part of the application lot to the nearby Government Land Licence (GLL) No. T2890 (**Plan A-2**), which is for cultivation purpose. Her

office will investigate and take necessary action on the GLL if situation warrants; and

- (c) if the planning application is approved, the owner of the lot concerned shall apply to her office for a Short Term Tenancy (STT) covering all the actual GL being occupied. The application for STT will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STT is approved, its commencement date will be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of rent and administrative fee as considered appropriate by her office.

### **Traffic**

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

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

#### 9.1.3 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- there is no proper run-in/out for the Site. Should the application be approved, the applicant is required to construct a proper ingress and egress for the Site according to HyD's Standard Drawings. Upon termination of the application, the applicant is required to reinstate the ingress and egress to their original state at his own cost to the satisfaction of HyD.

### **Agriculture**

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

- considering that the previous application for the same use as the current application was approved by the Board, he has no strong view against the renewal application.

### **Environment**

#### 9.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) it is noted that the Site is the subject of a previously approved application No. A/NE-LYT/645. Should the renewal application be approved, the applicant is advised to follow the relevant environmental mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" (COP) issued by DEP;
- (b) regarding the Tan Shan River in the proximity of the Site, the applicant should be reminded to follow relevant environmental measures in Annex I of the COP and to strictly observe the Water Pollution Control Ordinance to avoid any pollution to the watercourse; and

- (c) there is no environmental complaint against the Site in the past three years.

### **Landscape**

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

- (a) she has no objection to the application from landscape planning perspective;
- (b) the Site is situated in an area of rural inland plains landscape character surrounded by village houses, scattered tree groups and carparks. The proposed continued use of temporary public vehicle park is considered not incompatible with the surrounding environment;
- (c) the Site is fenced off and used as a carpark. Existing trees within the Site are generally in fair to good condition. Further significant adverse landscape impact arising from the renewal of planning approval for public vehicle park is not anticipated; and
- (d) in view that there is existing vegetation buffer to the northwest outside the Site along Sha Tau Kok Road – Ma Mei Ha, it is considered not necessary to impose landscape condition should the application be approved by the Board.

### **Drainage**

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

- (a) he has no objection to the application from public drainage viewpoint;
- (b) should the application be approved, a condition should be included to request the applicant to submit drainage condition record for the Site to ensure that there will be no adverse drainage impact to the adjacent area. 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; and
- (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.

### **Fire Safety**

#### 9.1.8 Comments of the Director of Fire Services (D of FS):

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

### **Building Matters**

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

- there is no proposed building/structure in the application. For any proposed new buildings (if any), detailed advisory comments under the Buildings Ordinance are appended in **Appendix VI**.

### **District Officer's Comments**

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

- he has consulted the locals regarding the application. The Chairman, First Vice-Chairman and Vice-Chairman of Fanling District Rural Committee (FDRC) and the Resident Representative (RR) of Kan Tau Tsuen object to the application for the reason that the public vehicle park is in close proximity to the nearby bus stop and might cause traffic accident. The Indigenous Inhabitant Representative (IIR) of Kan Tau, the RR and IIR of Hung Leng have no comment.

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

- (a) Project Manager (North), North Development Office, Civil Engineering and Development Department; and
- (b) Chief Engineer/Construction, Water Supplies Department.

## **10. Public Comments Received During Statutory Publication Period (Appendix V)**

On 11.5.2021, the application was published for public inspection. During the statutory public inspection period, five public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The First Vice-Chairman and Vice-Chairman of FDRC and two individuals object to the application mainly on the grounds that the public vehicle park would aggravate the existing traffic congestion of Sha Tau Kok Road, induce pedestrian safety concerns and generate nuisance to nearby residents; and the continual use of the Site for temporary public vehicle park would jeopardise the long-term planning intention of the “AGR” zone.

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

11.1 The application is for the renewal of planning permission for temporary public vehicle park for private cars and light goods vehicles for a further period of 3 years at the Site zoned “AGR” on the OZP. While the temporary use 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 has no strong view against the renewal application. It is considered that the approval of

the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “AGR” zone.

- 11.2 The temporary public vehicle park is considered not incompatible with the surrounding environment comprising village houses, scattered tree groups and carparks (**Plan A-2**). Relevant Government departments consulted, including C for T, DEP, CE/MN of DSD, D of FS and CTP/UD&L of PlanD, have no objection to or no adverse comment on the renewal application. The temporary public vehicle park is unlikely to cause any significant adverse traffic, environmental, drainage and landscape impacts on the surrounding areas.
- 11.3 The Site is the subject of five previously approved applications for the same use since 2007, of which three applications (No. A/NE-LYT/495, 556 and 645) submitted by the same applicant as the current application were approved by the Committee between 2013 and 2018. Compared with the last approved application No. A/NE-LYT/645, the number of parking spaces under the current application remains unchanged. All approval conditions under the last approval have been complied with and the planning permission is valid until 20.7.2021.
- 11.4 There are five similar applications involving three sites for temporary public vehicle park within the same “AGR” zone in the vicinity of the Site. Of them, three applications (No. A/NE-LYT/586, 691 and 712), including two in close proximity of the Site (**Plan A-1**), were approved by the Committee between May 2016 and November 2019 mainly on the grounds that the development was not incompatible with the surrounding area and would unlikely to cause significant adverse impacts; and there was no adverse comment from relevant departments. The remaining two applications (No. A/NE-LYT/698 and 699) were rejected by the Committee in July 2019 mainly for the reason that the applicants failed to demonstrate that the proposed developments would not cause adverse traffic impact on the surrounding areas. The planning circumstances of the current application are similar to the approved similar applications.
- 11.5 The application generally complies with the TPB-PG No. 34C (**Appendix II**) on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ in that there has not been any material change in planning circumstances since the approval of the last previous application; there is no adverse departmental comment; all the approval conditions for the last application have been complied with; and the approval period sought which is the same as the last approval granted by the Board is not unreasonable.
- 11.6 Regarding the local objection conveyed by DO(N), HAD and the adverse public comments in paragraphs 9.1.10 and 10 above, the Government department’s 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 local comments conveyed by DO(N), HAD and public comments mentioned in paragraphs 9.1.10 and 10 respectively, 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 period of 3 years and **be renewed from 21.7.2021**



**to 20.7.2024.** The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 8:00 p.m. and 8:00 a.m. daily, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/ stored on or enter/exit the Site at any time during the planning approval period;
- (c) the existing drainage facilities on the Site shall be maintained properly at all times during the planning approval period;
- (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 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 21.10.2021;
- (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 intended 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. There is no strong 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 permission for renewal of the planning 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 4.5.2021
<b>Appendix Ia</b>	Supplementary Information received on 7.5.2021
<b>Appendix II</b>	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’
<b>Appendix III</b>	Previous s.16 Applications
<b>Appendix IV</b>	Similar Applications
<b>Appendix V</b>	Public Comments
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	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  
JUNE 2021**