

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/766

- Applicant** : Mr LAU Wing On represented by Toco Planning Consultants Limited
- Site** : Lot 466 (Part) in D.D. 83, Kwan Tei, Fanling, New Territories
- Site Area** : About 2,008.75m²
- 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/19
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Public Vehicle Park (Private Car and Light Goods Vehicle Only) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary public vehicle park (private car and light goods vehicle only) for a period of 3 years on the application site (the Site) (**Plan A-1**). The Site is zoned “AGR” on the OZP. 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). The Site is currently covered with trees and vegetation.
- 1.2 According to the applicant, 58 parking spaces for private vehicles and 5 light goods vehicles will be provided on the Site (**Drawing A-1**). The ingress/egress point is located at a distance of about 100m to the north of the Site linked with a proposed access road which has a width of 3.5-5.5m and a passing bay of 2.5m (**Plan A-2**). Speed hump and 1.5m footpath with pedestrian railings are proposed to ensure pedestrian safety. No structure will be erected on the Site. The car park operates all year round for local residents and villagers living in Kwan Tei Village. The Site is accessible via a local track to Sha Tau Kok Road – Lung Yeuk Tau (**Plan A-2**). A proposed layout plan is at **Drawing A-1**.
- 1.3 The Site is the subject of a previous application (No. A/NE-LYT/718) submitted by the same applicant for the same use covering a larger site area of 3,400m². The application was rejected by the Rural and New Town Planning Committee (the Committee) in March 2020 mainly on planning intention and traffic ground. Details of the previous application are set out in paragraph 5 below.

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

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|-----|---|---------------|
| (a) | Application form with attachments received on 13.7.2022 | (Appendix I) |
| (b) | Planning Statement | (Appendix Ia) |
| (c) | Traffic Impact Assessment Study (TIA Study) | (Appendix Ib) |
| (d) | Further Information (FI) received on 24.10.2022 | (Appendix Ic) |

1.5 On 9.9.2022, the Committee agreed to the applicant's request to defer making a decision on the application for 2 months to allow more time for the applicant to address departmental and public comments.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 4 of the Planning Statement at **Appendix Ia**, as summarized below:

- (a) the proposed development could address insufficient parking spaces in Kwan Tei Village which is a well-developed village comprising a number of village houses;
- (b) the Site is in close proximity to the village proper of Kwan Tei Village, and is considered suitable for the proposed development;
- (c) the current application forms part of a previous planning application (No. A/NE-LYT/718) rejected by the Committee in 2020 largely on traffic ground. Under the current application, the scale of development has been reduced in terms of site area and there is submission of TIA Study to address the traffic concerns of the previous application. The TIA Study reveals that all key junctions and road links perform satisfactorily taking into account the proposed use and a 1.5m footpath will be provided which could minimize the interface issue between passing vehicles and users of the adjacent playground (**Drawing A-1**);
- (d) the proposed vehicular access would be routed through various private lots (i.e. Lots 467, 468, 469 and 482 in D.D. 83) (**Plan A-2**). The applicant has already obtained consents from the respective lot owners and undertakes to manage and maintain the access road;
- (e) land filling will not be involved and wild grass will be removed for the proposed use. Adverse environmental, drainage and landscape impacts are not anticipated;
- (f) there are similar applications for temporary public vehicle park in the vicinity of the Site, and approval of the current application would not set an undesirable precedent for other similar applications; and
- (g) support from relevant villagers and residents has been obtained.

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. 31A) by posting site notice and sending a notice to the Fanling Rural District Committee and

concerned lot owner(s). Detailed information would be deposited at the meeting for Members' inspection.

4. Background

Part of the Site is the subject of a previous planning enforcement case against unauthorized parking of vehicles which had been discontinued. Reinstatement Notice (RN) was issued on 17.6.2021 and compliance notice for RN was issued on 4.2.2022.

5. Previous Application

- 5.1 The application is the subject of a previous application (No. A/NE-LYT/718) covering a larger site area for the same use submitted by the same applicant as the current application. The application was rejected by the Committee on 6.3.2020 largely on the ground that the proposed development was not in line with the planning intention of "AGR" and the applicant failed to demonstrate that the development would not cause adverse traffic impact on the surrounding areas. Compared with the previous application, the site area has been reduced by about 1,391m² from 3,400m² to 2,008.75m² (-41%) while the number of parking spaces remains unchanged.
- 5.2 Details of the previous application are summarized at **Appendix II** and its location shown on **Plan A-1**.

6. Similar Application

- 6.1 There is one similar application within the same "AGR" zone to the immediate northeast of the Site. Application No. A/NE-LYT/742 for temporary public vehicle park involving 11 private vehicles parking spaces was approved with conditions on 5.2.2021 mainly on consideration that the development was not incompatible with the surrounding land uses; the development would unlikely cause any significant adverse impacts on the traffic, environment, drainage and landscape of the area; and the Site was the subject of a previous approval.
- 6.2 Details of the similar application are at **Appendix III** and its location is shown on **Plan A-1**.

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

- 7.1 The Site is:
- (a) mainly flat and covered with vegetation and trees in the northern part of the Site; and
 - (b) accessible from Sha Tau Kok Road – Lung Yeuk Tau via a local track.
- 7.2 The surrounding areas have the following characteristics (**Plan A-2**):
- (a) the surrounding land uses are predominantly rural in character intermixed with village houses and active/fallow agricultural land;

- (b) to the immediate east is a public vehicle park with planning approval; and to the further east is the village proper of Kwan Tei Village;
- (c) to the immediate north and northeast are fallow agricultural land, groups of trees and a pond; further north is football field and Kwan Tei Children's playground; and
- (d) to the immediate west and south are fallow agricultural land, watercourse and domestic structures.

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

9.2 The following government department has adverse comments on the application:

Agriculture and Nature Conservation

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

- (a) the application is not supported from agricultural point of view as the Site possesses potential for agricultural rehabilitation. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as open field cultivation, greenhouses, etc.; and
- (b) the watercourse is located at the south of the Site. Should the application be approved, the applicant should be reminded to implement good site practice so as not to pollute the watercourse nearby.

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

The application and relevant FI were published for public inspection. During the statutory publication periods, a total of 83 public comments were received. Among them, 73 supporting comments from individuals (with comments in standard formats) indicate that the Site could be fully utilized to meet the parking needs of local residents; the proposed use could alleviate the problem of illegal parking; and no significant impact would be induced due to its small scale. Five comments from individuals and Kadoorie Farm & Botanic Garden Corporation raise objection to the application mainly on grounds of adverse traffic impacts; environmental pollution and fire risk; close proximity to the pond; and not in line with the planning intention of "AGR" zone. The remaining 5 comments include (i) the Chairman of Sheung Shui District Rural

Committee indicating no comment and (ii) individuals expressing concerns on the potential impacts in terms of pedestrian safety, drainage and land filling issue and asking the applicant to ensure the pedestrian safety for playground users, and no land filling and tree felling and no environmental pollution to the pond nearby would be involved. A full set of public comments is deposited at the Board's Secretariat for Members' inspection and reference.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary public vehicle park (private car and light goods vehicle only) for a period of 3 years on a Site falling within "AGR" zone on the OZP. The proposed vehicle park 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. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. As the Site possesses potential for agricultural rehabilitation, DAFC does not support the application from agricultural development point of view. There are no strong justifications in the submission to justify a departure from the planning application of the "AGR" zone, even on a temporary basis.
- 11.2 The applicant claims that the proposed vehicle park could address insufficient parking space in Kwan Tei Village, and having reviewed the proposed access road, speed hump and footpath as detailed in paragraph 1.2 above, C for T has no in-principle objection to the application. Other relevant government departments consulted including CE/MN, DSD, CE/C of WSD have no adverse comment on or no objection on the application. Nevertheless, having regard to the "AGR" zoning of the Site, PlanD considers that public carparking provision should better be confined to areas intended for development purposes such as those within the "Village Type Development" zone. Parking problem should be addressed by provision of car parks in suitable location with necessary traffic enforcement action instead of undesirable proliferation of rural car parks in the "AGR" zone.
- 11.3 The Site is currently covered with vegetation and trees in the northern part of the Site. It is located to the west of Kwan Tei Village near the existing village proper and surrounded mostly by village houses, active/fallow farmland and tree clusters. The proposed temporary public vehicle park is considered not entirely incompatible with the surrounding areas. In this regard, CTP/UD&L, PlanD has no objection to the application from landscape planning perspective. Nevertheless, DAFC indicates that the Site could be used for open field cultivation, greenhouses, etc., and should be reserved for agricultural use.
- 11.4 The Site is the subject of a previous application (No. A/NE-LYT/718) for the same temporary use covering a larger site area submitted by the same applicant, which was rejected by the Committee on 6.3.2020 mainly on the grounds that the proposed development was not in line with the planning intention of "AGR" and the applicant failed to demonstrate that the temporary public vehicle park would not cause adverse traffic impact on the surrounding areas.
- 11.5 There is one similar application (No. A/NE-LYT/742) within the same "AGR" zone to the immediate southeast of the Site. The application was approved by the Committee mainly on consideration that the application site was the subject of a previous application involving a relatively small number of parking spaces (i.e. 11) and no adverse departmental comments except for DAFC. The current application involves a larger

number of parking spaces (i.e. 63) and is not subject to any previous approval. It also requires an additional vehicular access to be provided within the “AGR” zone leading from the existing access (**Plan A-2**). Such vehicular arrangement for the proposed vehicle park would further encroach onto the “AGR” zone which is undesirable from land use perspective. As such, the planning circumstances of the current application are different from the similar application.

- 11.6 Regarding the public comments as detailed in paragraph 10 above, government departments’ comments and planning assessment 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 as detailed in paragraph 10 above, the Planning Department does not support the application for the following reason:

- the proposed development is not in line with the planning intention of the “AGR” zone which is to retain primarily 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 planning justification for a departure from the planning intention, even on a temporary basis.

- 12.2 Alternatively, 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 until 23.12.2025. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval Conditions

- (a) no vehicle without valid licence issued under the Road Traffic Ordinance is allowed to be parked/stored on the Site at any time during the planning approval period;
- (b) 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 23.6.2023;
- (c) in relation to (b) above, the provision of drainage facilities 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 23.9.2023;
- (d) in relation to (c) above, the implemented drainage facilities at the Site shall be maintained at all times during the planning approval period;
- (e) 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 23.6.2023;
- (f) in relation to (e) 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 23.9.2023;

- (g) if any of the above planning condition (a) 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;
- (h) if any of the above planning condition (b), (c), (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; and
- (i) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

Advisory Clauses

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

13. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 12.3 Alternatively, 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. Attachments

Appendix I	Application form with attachments received on 13.7.2022
Appendix Ia	Planning Statement
Appendix Ib	Traffic Impact Assessment Study
Appendix Ic	Further Information received on 24.10.2022
Appendix II	Previous Application
Appendix III	Similar s.16 Application within the same “AGR” zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area
Appendix IV	Government Departments’ General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos