

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/768

- Applicant** : Mr. LAI Chow Lun represented by Metro Planning and Development Company Limited
- Site** : Lots 1532 S.A ss.1 to 1532 S.A ss.15 and 1532 S.A RP in D.D. 76, Kan Tau Tsuen, Fanling, New Territories
- Site Area** : About 400m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/18
- Zoning** : “Agriculture” (“AGR”)
- Application** : Renewal of Planning Approval for Temporary Public Vehicle Park (Private Cars) for a Period of 3 Years until 15.11.2025

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to continue using the application site (the Site) for a temporary public vehicle park (private cars) for a period of 3 years until 15.11.2025 (**Plan A-1**). The Site falls entirely within an area zoned “AGR” on the draft Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/18. 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 is not provided for under the Notes of the Plan. The Site is currently used for the applied use with valid planning permission until 15.11.2022.
- 1.2 According to the applicant, the temporary public vehicle park comprises 14 parking spaces (2.5m x 5m each) for private cars, serving the villagers of Kan Tau Tsuen. The Site is accessible from Sha Tau Kok Road – Ma Mei Ha via a local track (**Plan A-2**). The operation hours are from 7:00 a.m. to 11:00 p.m. daily, including public holidays. The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is the subject of two previous applications (No. A/NE-LYT/698 and 712) submitted by the same applicant for the same use. The last approved application No. A/NE-LYT/712 was approved by the Rural and New Town Planning Committee (the Committee) on 15.11.2019 for a period of 3 years until 15.11.2022. Compared with the last approved application, all parameters including site layout under the current application remain unchanged. The applicant has complied with all approval conditions. Details of the previous applications are provided 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 2.8.2022 | (Appendix I) |
| (b) Supplementary Information (SI) received on 4.8.2022 | (Appendix Ia) |
| (c) Further Information (FI) received on 31.8.2022 | (Appendix Ib) |
| (d) FI received on 8.9.2022 | (Appendix Ic) |
| (e) FI received on 10.10.2022 | (Appendix Id) |
- 1.5 On 23.9.2022, the Committee agreed to the applicant's request to defer making a decision on the application for one month to allow more time for the applicant to address 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, SI and FI submissions at **Appendices I to Id** and are summarized below:

- (a) the temporary development is intended to serve the villagers of Kan Tau Tsuen for meeting the demand of private car parking spaces;
- (b) the current application is the subject of a previously approved application (No. A/NE-LYT/712) for the same applied use. The applicant has complied with all approval conditions;
- (c) similar applications have been approved by the Board in the vicinity of the Site in the same "AGR" zone in the Lung Yeuk Tau area;
- (d) the scale, nature and layout of the development are compatible with the surrounding areas;
- (e) potential traffic, noise and environmental impacts to the surrounding areas are not anticipated; and
- (f) the applicant has erected traffic signage at the Site to ensure pedestrian safety.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is not a "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 taking reasonable steps to give notification to the owner including posting site notices and

sending notices to the Ta Kwu Ling District Rural Committee by registered post. Detailed information would be deposited at the meeting for Members' inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 34D (TPB PG-No. 34D) on 'Renewal of Planning Approval and Extension of time for Compliance with Planning Conditions for Temporary Use or Development' are relevant to this application. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. Previous Applications

- 5.1 The Site is the subject of two previous applications (No. A/NE-LYT/698 and 712) submitted by the same applicant for the same applied use under the current application. Application No. A/NE-LYT/698 was rejected by the Committee in July 2019 mainly on the ground that the applicant failed to demonstrate that the development would not cause adverse traffic impact on the surrounding areas. Further to the submission of traffic information, application No. A/NE-LYT/712 was approved by the Committee in November 2019 mainly on consideration that the proposed development was not incompatible with the surrounding areas; no significant adverse traffic, environmental and drainage impacts; and no adverse departmental comments.
- 5.2 Application No. A/NE-LYT/712 was approved by the Committee on 15.11.2019 for a period of 3 years until 15.11.2022. Compared with the last approved application, all parameters including site layout under the current application remain unchanged. The applicant has complied with all approval conditions.
- 5.3 Details of the previous applications are summarized at **Appendix III** and the location is shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are five similar applications involving three sites within the "AGR" zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area for temporary public vehicle park.
- 6.2 Among them, four applications (No. A/NE-LYT/645, 691, 741 and 749) involving two sites for temporary public vehicle parks with ancillary uses were approved with conditions by the Committee between July 2018 and September 2021 mainly on consideration that the proposed developments were not incompatible with the surrounding land uses; no significant adverse traffic, environmental, drainage and landscape impacts were anticipated; no adverse departmental comments; and previous planning approvals were granted.
- 6.3 Application No. A/NE-LYT/699 for proposed temporary public vehicle park (private car) was rejected by the Committee in July 2019 mainly on the ground that the

applicant failed to demonstrate that the development would not cause adverse traffic impact on surrounding areas.

- 6.4 Details of the similar applications are summarized at **Appendix III** and the locations are 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, paved and currently used as the applied use; and
- (b) accessible from Sha Tau Kok Road – Ma Mei Ha via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) predominantly rural landscape character surrounded by village houses, farmland, vegetated area, tree clusters and open storage yards;
- (b) to the north is Sha Tau Kok Road – Ma Mei Ha, across which are an open storage yard for construction materials, a warehouse and a workshop;
- (c) to the east is the village proper of Kan Tau Tsuen; and
- (d) to the south and west are mainly vacant/unused land intermixed with active/fallow agricultural land and temporary 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

All government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided at **Appendices IV** and **V** respectively.

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

On 9.8.2022, the application was published for public inspection. During the statutory public inspection period, two public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. An individual raises objection to the application on grounds that the development would cause adverse environmental and traffic impacts on the surrounding areas; increase fire risk; and pose threats to nearby villagers.

11. Planning Considerations and Assessments

- 11.1 The application is for renewal of a planning permission for a temporary public vehicle park (private car) for a period of 3 years at the Site zoned “AGR” on the OZP, 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. DAFC has no strong view on the renewal application. Given that the development is only on a temporary basis, approval of the application for another 3 years would not jeopardise the long-term planning intention of the “AGR” zone.
- 11.2 The Site is situated in an area of rural landscape character comprising mainly vegetated area, farmland, tree clusters, village houses and open storage yards. The development is considered not incompatible with the surrounding environment. Given that significant adverse landscape impact on existing landscape resources is not anticipated, CTP/UD&L, PlanD has no objection to the renewal application from landscape planning perspective. C for T has no objection to the renewal application from traffic engineering perspective. Other relevant government departments, including, CE/MN of DSD, D of FS and DEP, have no objection to or no adverse comment on the renewal application.
- 11.3 The renewal application is generally in line with TPB PG-No. 34D in that previous approval for the same use was granted in 2019 and all approval conditions under the last approved application (No. A/NE-LYT/712) have been complied with. The current application submitted by the same applicant is the same as the last approved application in terms of applied use, site area/boundary and major development parameters; there has not been any material change in planning circumstances since the approval of the last application; there is no adverse departmental comments; and the approval period sought which is as same as the last approval granted is not unreasonable.
- 11.4 There are five similar applications involving three sites within the same “AGR” zone in the vicinity of the Site. Except for application No. A/NE-LYT/699, all other applications were approved by the Committee between July 2018 and September 2021 mainly on the consideration that the developments were not incompatible with the surrounding land uses; no significant adverse traffic, environmental, drainage and landscape impacts; no adverse departmental comments; and previous planning approvals were granted. Application No. A/NE-LYT/699 was rejected by the Committee in July 2019 mainly on the ground that the applicant failed to demonstrate that the development would not cause adverse traffic impact on surrounding areas. The planning circumstances of the current application are similar to those approved applications.
- 11.5 Regarding the 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, the Planning Department considers that

the temporary use under the application 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 16.11.2022 to 15.11.2025**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 11:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) 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 at any time during the planning approval period;
- (c) only private car as defined in the Road Traffic Ordinance is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) the maintenance of peripheral fencing on the Site at all times during the planning approval period;
- (e) the existing drainage facilities should be properly maintained at all times during the planning approval period;
- (f) the existing fire service installations implemented shall be maintained in efficient working order at all times during the planning approval period; and
- (g) if any of the above planning conditions (a), (b), (c), (d), (e) or (f) 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 V**.

- 12.3 There is no strong reason to recommend rejection of the renewal application.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant 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

Appendix I	Application form with attachments received on 2.8.2022
Appendix Ia	SI received on 4.8.2022
Appendix Ib	FI received on 31.8.2022
Appendix Ic	FI received on 8.9.2022
Appendix Id	FI received on 10.10.2022
Appendix II	Relevant extracts of TPB PG-No. 34D
Appendix III	Previous and similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comments
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
NOVEMBER 2022**