

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

APPLICATION NO. A/NE-LYT/815

- Applicant** : Lau Kung Yi (or I) Tong represented by Toco Planning Consultants Limited
- Site** : Lot 470 (Part) in D.D. 83 and Adjoining Government Land (GL), Kwan Tei, Fanling, New Territories
- Site Area** : About 420m² (including about 75m² of GL)
- Lease** : (a) Block Government Lease (demised for agricultural use) (82% of the Site)
(b) GL (about 18% of the Site)
- Plan** : Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/19
- Zoning** : “Agriculture” (“AGR”)
- Application** : Renewal of Planning Approval for Proposed Temporary Public Vehicle Park (PVP) (Private Cars) for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to continue using the application site (the Site) for a temporary PVP for private cars for a further period of three years until 5.2.2027 (**Plan A-1**). The Site falls within “AGR” zone on the approved Lung Yeuk Tau and Kwan Tei South OZP. According to the covering 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 used for the applied use with valid planning permission until 5.2.2024.
- 1.2 The Site is accessible via a local track to Sha Tau Kok Road – Lung Yuk Tau (**Plan A-1**). According to the applicant, a total of 11 parking spaces (5m x 2.5m each) for private cars will be provided within the Site to serve the local residents. No structure or kiosk will be erected on the Site (**Drawing A-1**). The operation hours of the temporary PVP are 24 hours daily.
- 1.3 The Site is the subject of three previous applications (No. A/NE-LYT/568, 742 and 795) of which applications No. A/NE-LYT/568 and 742 submitted by the same applicant were approved for the same use with the same parameters as the current application. Compared with the last approved application No. A/NE-LYT/742, the site layout and development parameters of the current application remain unchanged and all the approved conditions under the last approved application have been complied with.

Details of previous applications are set out in paragraph 6.1 below.

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

- (a) Application Form with attachments received on 30.11.2023 **(Appendix I)**
- (b) Supplementary Planning Statement (SPS) **(Appendix Ia)**
- (c) Further information (FI) received on 9.1.2024 ^ **(Appendix Ib)**
- (d) FI received on 17.1.2024^ **(Appendix Ic)**

^ 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 SPS at **Appendices I** and **Ia** respectively. They can be summarized as follows:

- (a) the renewal of further three years can allow continuity of the existing village car park use to meet the genuine demand for parking spaces of the villagers in Kwan Tei Village;
- (b) the renewal of further three years is considered reasonable and it will not frustrate the long-term planning intention of the “AGR” zone;
- (c) the small scale development will not result in any significant traffic, environmental drainage, sewerage and landscape impacts on the locality;
- (d) there has been no change in planning circumstances since the granting of the original permission; and
- (e) the applicant has complied with all the approval conditions under the previous approval.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is the sole current land owner of the private land portion of the Site. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the ‘Owner’s consent/notification’ requirements are not applicable.

4. Town Planning Board Guidelines

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

5. Background

The Site is not subject to any active planning enforcement action.

6. Previous Applications

6.1 The Site is the subject of three previous applications (No. A/NE-LYT/568, 742 and 795)

for the same applied use for a period of three years. Applications No. A/NE-LYT/568 and 742 submitted by the same applicant as the current application were approved by the Rural and New Town Planning Committee (the Committee) with the same parameters (i.e. 11 parking spaces). The applications were approved with conditions mainly on considerations that the development was not incompatible with the surrounding land uses; and the development would unlikely cause any significant adverse traffic drainage, environmental and landscape impacts. All the approval conditions under the last approved application No. A/NE-LYT/742 have been complied with and the planning permission is valid until 5.2.2024.

- 6.2 Application No. A/NE-LYT/795 involving a larger area, submitted by a different applicant, was rejected on review by the Board on 1.12.2023 as the proposed use (with total car parking spaces of 30) was not in line with the planning intention of the “AGR” zone; there was no strong planning justification in the submission for departure from the planning intention, even on a temporary basis.
- 6.3 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 have been two similar applications (No. A/NE-LYT/718 and 806) for temporary PVP within the same “AGR” zone in the vicinity of the Site over the past five years. Application No. A/NE-LYT/806 for temporary PVP straddling “AGR” and “Residential (Group C)” zones was approved by the Committee on 27.10.2023 mainly on the considerations that the Commissioner for Transport (C for T) supported the application as it could relieve the shortage of parking spaces in the area and address acute illegal parking problems observed in the vicinity of Ma Liu Shui San Tsuen, particularly along Hai Wing Road and Dao Yang Road; and the “AGR” portion of the Site had been formed and used intermittently for storage/workshop uses.
- 7.2 Application No. A/NE-LYT/718 was rejected by the Committee on 6.3.2020 as the proposed use was not in line with the planning intention of the “AGR” zone and the applicant also failed to demonstrate that the development would not cause adverse traffic impact on the surrounding areas.
- 7.3 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.

8. The Site and Its Surrounding Area (Plans A-1 to A-4)

- 8.1 The Site is:
 - (a) fenced off and paved;
 - (b) currently used for the applied use with valid planning permission; and
 - (c) accessible via Sha Tau Kok Road – Lung Yeuk Tau via a local track. (**Plan A-2**).
- 8.2 The surrounding areas are predominantly rural in character intermixed with tree clusters, active/fallow agricultural land, vacant land, village houses and a pond. A local track is located at its immediate east which connects to Sha Tau Kok Road – Lung Yeuk Tau.

The village proper of Kwan Tei Village is located to the east.

9. 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.

10. Comments from Relevant Government Departments

10.1 Apart from the government department as set out in paragraph 10.2 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments are provided at **Appendices V** and **VI** respectively.

10.2 The following government department has concerns on the application:

Land Administration

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

- (a) she has no objection to the application;
- (b) the Site comprises Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. No right of access via GL is granted to the Site;
- (c) the GL within the Site (about 75m²) (**Plan A-2**) has been fenced off without any permission. Any occupation of GL without Government's prior approval is an offence under Cap. 28, the lot owner should immediately cease the illegal occupation of GL. He reserves the rights to take necessary land control action against the illegal occupation of GL without further notice; and
- (d) if the planning application is approved, the lot owner should apply for a Short Term Tenancy (STT) for the occupation of GL. The application for STT will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STT, if approved, will be subject to such terms and conditions including the payment of rent and administrative fee as considered appropriate by LandsD.

10.3 District Officer (North), Home Affairs Department (DO(N), HAD) has relayed the following local views on the application:

he has consulted the locals regarding the application. One Indigenous Inhabitant Representative (IIR) of Kwan Tei supports the application as it can help to improve the parking problem in Kwan Tei Village and reduce illegal parking on the roadside. The Chairman of Fanling District Rural Committee has no comment. The Chairman of Lung Shan Area Committee comments that the Site should be kept tidy without causing traffic jams. The Resident Representative (RR) of Kwan Tei, one IIR of Kwan Tei, the IIR and the RR of Fu Tei Pai have not replied.

11. Public Comments Received During Statutory Publication Period (Appendix VII)

On 8.12.2023, the application was published for public inspection. During the first three weeks of the statutory public inspection period, 31 public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. 30 individuals, submitted in a standard form, support the application mainly on the grounds that the application is in small scale with no adverse impacts/complaints; it would make good use of the abandoned land for providing a PVP to meet the parking needs of residents; and help improve parking problems in the village.

12. Planning Considerations and Assessments

- 12.1 The application is for the renewal of planning approval for temporary PVP for private cars for a further period of three 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 as detailed in paragraph 9, DAFC has no strong view against the renewal application as the previous application for the same use on the Site was approved. Taking into account the above as well as the planning assessment below, the renewal of the applied use for a further period of three years could be tolerated.
- 12.2 The Site is located at the western fringe of Kwan Tei Village and surrounded mostly by village houses and fallow/active agricultural land. The proposed development is considered not entirely incompatible with the surrounding land uses which are predominantly temporary structures, village houses, fallow/active agricultural land pond and scattered tree groups (**Plans A-2 and A-3**). Since significant adverse impacts on existing landscape resources arising from the proposed development are not anticipated, CTP/UD&L, PlanD has no objection to the application from landscape planning perspective.
- 12.3 The Site is the subject of two previously approved applications (No. A/NE-LYT/568 and 742) for the same applied use submitted by the same applicant as set out in paragraph 6.1. All the approval conditions of the last approved application have been complied with and the planning permission is valid until 5.2.2024. Relevant government departments consulted including DLO/N of LandsD, C for T, Director of Fire Services, Chief Engineer/Mainland North of Drainage Services Department and Director of Environmental Protection have no adverse comment on/ objection to the renewal application. Regarding the issue on GL occupation, the applicant indicates that he would rectify the matters through applying STT accordingly (**Appendix Ic**). Such land matter should be addressed separately in the land regime. The renewal application is not expected to have significant adverse landscape, drainage, environmental and traffic impacts on the surrounding areas.
- 12.4 The application generally complies with the TPB PG-No. 34D in that there has been no material change in planning circumstances since the approval of the previous application; no major adverse departmental comments; all approval conditions for the previous application have been complied with; and the approval period sought is not unreasonable.
- 12.5 Regarding the local comments conveyed by DO(N) of HAD and public comments to the application as detailed in paragraphs 10.3 and 11 respectively, government departments’ comments and planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account local comment conveyed by DO (N) of HAD and public comment as detailed in paragraphs 10.3 and 11 respectively, the Planning Department considers that the temporary development 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 further period of three years **from 6.2.2024 to 5.2.2027**. The following conditions of approval and advisory clauses are also 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) only private cars 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;
- (c) the submission of a condition record of the existing drainage facilities 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 **6.5.2024**;
- (d) the existing drainage facilities shall be properly maintained at all times during the planning approval period;
- (e) if any of the above planning condition (a), (b) 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
- (f) if the above planning condition (c) 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 reason for rejection is suggested for Members' reference:
- the applied use 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.

14. Decision Sought

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

15. Attachments

Appendix I	Application Form with attachments received on 30.11.2023
Appendix Ia	SPS
Appendix Ib	FI received on 9.1.2024
Appendix Ic	FI received on 17.1.2024
Appendix II	Relevant Extract of TPB-PG No. 34D 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 for temporary PVP within same “AGR” zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area
Appendix V	Government Departments’ General Comments
Appendix VI	Recommended Advisory Clauses
Appendix VII	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
JANUARY 2024**