

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/KTN/60

<u>Applicant</u>	Mr. TAI CHI SING
<u>Site</u>	Lots 90 (Part), 91 (Part) and 94 S.A RP (Part) in D.D. 95 and Adjoining Government Land, Ho Sheung Heung, Sheung Shui, New Territories
<u>Site Area</u>	3,170 m ² (about) (including about 40 m ² of Government Land (about 1.3%))
<u>Lease</u>	Old Schedule lots held under the Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Kwu Tung North Outline Zoning Plan No. S/KTN/2
<u>Zoning</u>	“Residential (Group B)” (“R(B)”) (about 78%) and an area shown as ‘Road’ (about 22%)
<u>Application</u>	Temporary Container Vehicle Park (including Light and Heavy Goods Vehicles) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary container vehicle park (including light and heavy goods vehicles) for a period of 3 years. The Site falls within an area zoned “R(B)” and an area shown as ‘Road’ on the approved Kwu Tung North Outline Zoning Plan (OZP) No. S/KTN/2. According to the Notes of the OZP, temporary use not exceeding a period of three years requires permission of the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission.
- 1.2 The Site is the subject of 3 previous applications No. A/DPA/NE-KTN/34, and A/NE-KTN/146 and 168¹. The last application No. A/NE-KTN/168 submitted by the current applicant for the same use was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 16.8.2013 for a period of 5 years. All approval conditions for the last

¹ The Site was zoned “Open Storage” (“OS”) on the previous Kwu Tung North OZPs, and was rezoned to “R(B)” and an area shown as ‘Road’ on 20.12.2013

application have been complied with and the planning permission lapsed on 17.8.2018. The current application is largely the same as the previous application but with a larger area (**Plan A-1**).

- 1.3 According to the applicant's submission, the applied development comprises 24 parking spaces, including 10 for container vehicles, 11 for heavy goods vehicles and 3 for light goods vehicles. There are also seven structures of one to two-storey high with a total floor area of 590 m² for office, meter room, storage, bathroom/toilet and pantry uses. The bathroom/toilet and pantry are for staff and drivers only, and septic tank and soakaway pit were built (**Appendix Ib**). The Site is accessible from Ho Sheung Heung Road. The operation hours is from 8:00 a.m. to 8:00 p.m. daily. The daily vehicular trip generation is about 40. The layout plan, landscape plan, and parking layout plan submitted by the applicant are at **Drawings A-1 to A-3**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 28.3.2019 (**Appendix I**)
 - (b) Further Information (FI) dated 20.4.2019 (**Appendix Ia**)
 - (c) FI dated 3.5.2019 (**Appendix Ib**)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendix I**. They are summarised as follows:

- (a) The Site is the subject of previous planning application No. A/NE-KTN/168 which was valid until 16.8.2018. The planning permission had lapsed and the applicant has not submitted an application for renewal of the temporary permission in time. Thus, this new application is submitted.
- (b) All approval conditions for the previous application, including submission and implementation of proposals for vehicular access, parking and loading/unloading facilities, drainage, fire-fighting and fire service installation, and tree preservation and landscape, have been complied with.
- (c) The Site is in good condition with no change in the structures. No approval condition is needed for the current application.

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. 31) by posting site notice near the entrance of the Site and sending notice to the Sheung Shui District Rural Committee (SSDRC) by local registered post. For the portion of Government Land, the "Owner's

Consent/Notification” Requirements is not applicable. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is currently not a subject of any active enforcement case. Should there be sufficient evidence to prove that the current use on the Site constitutes an Unauthorized Development under the Town Planning Ordinance, enforcement action would be taken.

5. **Town Planning Board Guidelines**

Town Planning Board Guidelines No. 13E for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13E)

The Site² falls within Category 1 areas under the Town Planning Board Guidelines TPB PG-No.13E promulgated by the Board on 17.10.2008. The following criteria are relevant:

Category 1 areas: favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses, such as container trailer/ tractor park and open storage of chemical products/ dangerous goods etc., may cause significant environmental and traffic concerns.

6. **Previous Applications**

6.1 The Site involves 3 previous applications No. A/DPA/NE-KTN/34, and A/NE-KTN/146 and 168. They were considered by the Committee when the area was zoned “OS” and all were approved with conditions. The last application was submitted by the same applicant as the current application. Details of the applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

6.2 Application No. A/DPA/NE-KTN/34 for warehouse for storage of marble and laminated timber was approved with conditions by the Committee on 20.5.1994 on the grounds that the proposed use was not incompatible with the planning intention of the area at that time, there was an acute demand for sites for storage of materials that could not be accommodated in conventional godown in the North District and the scale of the applied use was not excessive.

6.3 Applications No. A/NE-KTN/146 and 168 involving almost the same site as the current application for the same use both for a period of 5 years were approved with conditions on 24.2.2012 and 16.8.2013 respectively mainly on

² The Site was zoned “OS” at the time of promulgation of TPB Guidelines 13E.

the grounds that the applied use was generally in line with the planning intension of the then “OS” zone, the development was not incompatible with the surrounding land uses and was not anticipated to cause significant adverse traffic, environmental, drainage and landscape impacts on the surrounding area. All the approval conditions for the last application A/NE-KTN/168 have been complied with, and the planning permission lapsed on 17.8.2018.

7. Similar Applications

7.1 There are 3 similar applications (No. A/KTN/16, 27 and 53) mainly for proposed temporary medium goods vehicles and/ container tractor/trailer park partly within the same ‘Road’ area and other “R(B)” zones on the same OZP. They were approved by the Committee on 6.11.2015, 24.6.2016 and 2.11.2018 mainly on the grounds that the applications generally complied with the TPB PG-No.13E in that there were no major adverse departmental comments on the applications, and environmental concerns could be addressed by imposing relevant approval conditions.

7.2 Details of these similar applications are summarized at **Appendix III**. The locations of these application sites are shown on **Plan A-1**

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

8.1 The Site is:

- (a) formed, fenced and accessible via Ho Sheung Heung Road; and
- (b) currently occupied by a container vehicle park with a few temporary structures without valid planning permission.

8.2 The surrounding areas have the following characteristics:

- (a) to its west are some domestic structures;
- (b) to its south are fallow agricultural land and warehouses; and
- (c) to its east, north and northwest are mainly workshops, warehouses, open storage yards with scattered domestic structures.

9. Planning Intentions

9.1 The “R(B)” zone is primarily intended for medium-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

9.2 Area shown as ‘Road’ is intended for road development.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views are summarised as follows:

Land Administration

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

- (a) the Site comprises Lots No. 90, 91 and 94 S.A RP in D.D. 95 and adjoining Government land. The lots are Old Schedule lots 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. The Government shall accept no responsibility in such arrangement, and there is no guarantee that any adjoining Government land will be allowed for the vehicle access of the applied use;
- (b) the existing structures on the Site were erected without approval from his office. The aforesaid structures are not acceptable under the Leases concerned. His office reserves the right to take enforcement actions against the aforesaid structures;
- (c) the total built-over area and numbers of the aforesaid structures do not tally with the proposed ones as mentioned in the planning parameters;
- (d) the Government land adjacent to the Site is being occupied without approval from his office. Some portions of the adjoining Government land were fenced off by hoardings without approval. It is not acceptable and the applicant should cease the illegal occupation and remove the hoardings at its own cost. His office reserves the right to take land control actions against the unauthorized occupation of Government land; and
- (e) if the planning application is approved, the owner(s) of the lots concerned shall apply to his office for a Short Term Waiver (STW) and Short Term Tenancy (STT) to cover all the actual occupation area. The applications for STW and STT will be considered by the Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW/STT are approved, their commencement date would be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by his office.

Traffic

10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) he noted the space for maneuvering (for both near the run-in and within the car park) would be quite limited. As such, for the sake of road safety, the applicant should deploy resources in monitoring and controlling of their traffic in the vicinity; and
- (b) he considers an approval condition restricting vehicles from queuing back to or reversing onto/from public road appropriate.

10.1.3 Comments of the Commissioner of Police (C of P):

he reminds the applicant that no obstruction caused to the vicinity would be tolerated.

Future Development

10.1.4 Comments of the Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD):

he has no comment on the application from the project interface point of view.

Environment

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

- (a) he does not support the application as there are sensitive uses in the vicinity of the Site (the nearest domestic structures are in the southwest of the Site). Environmental nuisance to nearby residents is anticipated;
- (b) the applicant is advised to follow the environmental mitigation measures as recommended in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize the potential environmental impacts on the adjacent area;
- (c) it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances and provide adequate supporting infrastructure including waste/ wastewater collection and disposal facilities for the proper collection, treatment and disposal of waste/ wastewater generated from the proposed use;
- (d) the design and construction of the septic tank and soakaway system and petrol interceptor shall follow the requirements of his Department’s Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans Subject to Comment by

the Environmental Protection Department”; and

- (e) there is no environmental complaint case related to the Site in the past 3 years.

Landscape

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

- (a) according to the latest aerial photo taken in 2018, the Site is predominantly in rural landscape character. The surrounding area is comprised of temporary structures and hard paved areas for container and vehicle parking. Tree groups were found outside the southwestern boundary of the Site. The proposed use is not incompatible with its existing landscape setting;
- (b) based on the site visit conducted on 6.11.2018, existing trees were found along the periphery of the site boundary and formed effective landscape buffer to the surrounding area. Based on the submitted landscape drawing, existing trees within the Site would not be in conflict with the proposed structures and tree maintenance schedule is provided. As further adverse landscape impact arising from the applied use is not anticipated, his office has no objection to the application from the landscape planning perspective; and
- (c) should the application be approved, he recommends including the planning condition requiring maintenance of existing trees within the Site in good condition at all times during the planning approval period.

Drainage

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

- (a) he has no objection in-principle to the application from the public drainage point of view; and
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent areas. The general requirements in the drainage submission are at **Appendix IV**.

Building Matters

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

- (a) he has no in-principle objection under the Buildings Ordinance to the applied use on the Site;
- (b) before any new building works (including temporary buildings office/store/toilet) are to be carried out on the Site, prior approval and consent from BD should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO; and
- (c) in connection with the above, the Site shall be provided with emergency vehicular access in accordance with B(P)R 41D respectively.

Nature Conservation

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

it is noted the Site is an existing car park and a similar use had been approved by the Board in 2013. His office has no comment on the application. Nonetheless, it is noted a channelized watercourse is adjacent to the northeast boundary of the Site, good site practice should be implemented in order not to pollute the watercourse nearby.

Fire Safety

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

- (a) he has no objection in principle to the application subject to fire service installations being provided to the satisfaction of D of FS; and
- (b) his advisory comments are at **Appendix IV**.

Water Supply

10.1.11 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

he has no objection to the application. For provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within

the private lots to WSD's standards.

District Officer's Comments

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

he has consulted the locals from 15.4.2019 to 30.4.2019. The North District Council (NDC) member of the subject Constituency supported the proposal. The Resident Representative (RR) of Kwu Tung (South) objected to the proposal mainly on adverse traffic impact and pedestrian safety reasons. The Chairman of Sheung Shui District Rural Committee and the RR of Kwu Tung (North) had no comments on the proposal.

10.2 The following Government department(s) have no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Head of the Geotechnical Engineering Office, CEDD (H(GEO), CEDD); and
- (c) Director of Electrical and Mechanical Services (DEMS).

11. Public Comments

On 9.4.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 30.4.2019, 1 public comment (**Appendix V**) is received, which indicates no comment on the application.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary container vehicle park (including light and heavy goods vehicle) for a period of 3 years. The Site mainly falls within an area zoned "R(B)" with a portion in an area shown as 'Road' on the approved Kwu Tung North OZP No. S/KTN/2 (**Plan A-1**). The applied use is not in line with the planning intention of the above zonings. However, PM/N, CEDD has no comment on the application from the project interface point of view. The Site falls within Remaining Phases of the NDA project. In view of this, approval of the application on a temporary basis would not jeopardize the long-term development of the concerned zonings in the area.
- 12.2 The proposed use is considered not incompatible with the surrounding land uses which comprise mainly warehouses, open storage yards and vehicle repair workshops with some scattered domestic structures (**Plan A-2**).
- 12.3 The Site falls within Category 1 areas stated in the TPB PG-No.13E promulgated by the Board on 17.10.2008. The following criteria are relevant:

Category 1 areas: Favorable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses, such as container trailer/tractor park and open storage of chemical products/dangerous goods etc., may cause significant environmental and traffic concerns.

- 12.4 The application generally complies with the TPB Guidelines No. 13E in that there is no major adverse departmental comment on the application. Although DEP does not support the application as there are residential dwellings in the vicinity of the Site, DEP has not received any complaints about the Site in the past 3 years. To address DEP's concern and mitigate any potential environmental impacts, approval conditions restricting operation hours and activities on the Site are recommended in paragraph 13.2 (a) and (b) below. The applicant is advised to follow the environmental mitigation measures as recommended in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" in order to minimise the potential environmental impacts on the adjacent area. Also, to address C for T's concern, an approval condition prohibiting vehicles reversing onto public road is recommended in paragraph 13.2 (c) below. Non-compliance with the approval conditions will result in revocation of the planning permission. Other concerned departments, including CE/MN, DSD, D of FS and CTP/UD&L, PlanD have no adverse comment on the application, and their suggested approval conditions are recommended in paragraphs 13.2 (d) to (h) below.
- 12.5 The Site is the subject of 3 previous applications No. A/DPA/NE-KTN/34, A/NE-KTN/146 and 168. The last application No. A/NE-KTN/168 for the same use was approved with conditions by the Committee on 16.8.2013 for a period of 5 years. The permission lapsed on 17.8.2018. All approval conditions for the last application have been complied with. Approval of the current application is in line with the previous decisions of the Committee.
- 12.6 There is 1 local objection conveyed by DO(N) on possible traffic and road safety impact, and 1 public comment indicating no comment (as stated in paragraphs 10.1.12 and 11). Relevant Government departments' comments and planning considerations set out in paragraph 12.4 above is relevant.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the local views and public comment mentioned in paragraphs 10.1.12 and 11, the Planning Department considers that the temporary container vehicle park (including light and heavy goods vehicle) could be tolerated for a 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 period of 3 year until 17.5.2022. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 8:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle repairing and other workshop activities are allowed to be carried out at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) existing trees within the Site should be maintained in good condition at all times during the planning approval period;
- (e) the submission of proposal for fire service installations and water supplies for fire-fighting 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 17.11.2019;
- (f) in relation to (e) above, the implementation of proposal for fire service installations and water supplies for fire-fighting 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 17.2.2020;
- (g) the submission of 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 17.11.2019;
- (h) in relation to (g) above, the implementation of drainage proposal 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 17.2.2020;
- (i) if any of the above planning conditions (a), (b), (c) or (d) is not complied with during the planning approval period, the approved hereby given shall cease to have effect and shall be revoked without further notice; and
- (j) if any of the above planning conditions (e), (f), (g) or (h) 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 attached at **Appendix IV**.

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

the applicant fails to demonstrate that the applied development would not cause adverse environmental impact on its surrounding areas.

14. Decision Sought

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

15. Attachments

Appendix I	Application Form received on 28.3.2019
Appendix Ia	FI dated 20.4.2019
Appendix Ib	FI dated 3.5.2019
Appendix II	Previous Applications
Appendix III	Similar Applications
Appendix IV	Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Layout Plan
Drawing A-2	Landscape Proposal
Drawing A-3	Parking Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos