

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/KTN/67**

<b><u>Applicant</u></b>	Sun Kong Motoring Service Limited represented by Metro Planning and Development Company Limited
<b><u>Site</u></b>	Lots 879 S.A RP, 879 S.B RP (Part) and 880 S.C RP (Part) in D.D. 92 and Adjoining Government Land, Yin Kong, Sheung Shui, New Territories
<b><u>Site Area</u></b>	About 2,674 m <sup>2</sup> (including about 310 m <sup>2</sup> of Government land)
<b><u>Lease</u></b>	(a) Old Schedule lot held under the Block Government Lease (demised for agricultural use) (about 88% of the Site); and (b) Government land (about 12% of the Site)
<b><u>Plan</u></b>	Approved Kwu Tung North Outline Zoning Plan (KTN OZP) No. S/KTN/2
<b><u>Zoning</u></b>	“Other Specified Uses” annotated “Amenity Area” (“OU(A)”) (about 31%), “Other Specified Uses” annotated “Business and Technology Park” (“OU(BTP)”) (about 2%) and area shown as ‘Road’ (about 67%)
<b><u>Application</u></b>	Temporary Coach and Container Trailer Parking with Ancillary Vehicle Repair Workshop for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary coach and container trailer parking with ancillary vehicle repair workshop at the application site (the Site) for a period of 3 years. The Site falls within an area zoned “OU(A)”, “OU(BTP)” and an area shown as ‘Road’ on the approved KTN OZP No. S/KTN/2 (**Plan A-1**). The applied use is neither a Column 1 nor Column 2 use for the “OU(A)” and “OU(BTP)” zones. According to the Notes of the OZP, temporary use not exceeding a period of 3 years on the Site requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission.

- 1.2 The Site is involved in 11 previous applications and all were approved by the Rural and New Town Planning Committee (the Committee) (**Plan A-1**). 9 previous applications were for similar temporary vehicle park and all were approved by the Committee between 1993 and 2015. Whereas the last application No. A/KTN/45 for temporary warehouse for a period of 3 years was approved by the Committee on 6.7.2018. However, the planning approval was revoked on 6.1.2020 due to non-compliance with approval conditions. According to the applicant, the plan for converting the Site into warehouse use was abandoned. The applied use under the current application is the same as the second last planning permission (No. A/KTN/18) granted in 2015. The current application and the previous applications No. A/KTN/18 and 45 are submitted by three different applicants.
- 1.3 The applied development comprises 3 two-storey (not more than 8m) structures with a total gross floor area (GFA) of about 1,376m<sup>2</sup> for ancillary vehicle repair workshop, site office and toilet (**Drawing A-1**). 8 parking spaces for coach and container trailer are provided within the Site. The Site is accessible from a local track leading from Castle Peak Road – Kwu Tung. The estimated traffic generated/attracted by the applied development at peak hours are 6 and 9 passenger car unit (pcu) per hour respectively. The operation hour of the development is from 9:00 a.m. to 6:00 p.m., from Mondays to Saturdays, and no operation on Sundays and public holidays. The applicant has submitted a landscape and tree preservation plan (**Drawing A-2**) and an as-built drainage plan to support the application.
- 1.4 In support of the application, the applicant have submitted the following documents:
- (a) Application Form and a letter with drawings received on 13.1.2020 (**Appendix I**)
  - (b) Supplementary Planning Statement (**Appendix Ia**)
  - (c) Further Information received on 21.2.2020 (**Appendix Ib**)  
(*exempted from publication*)

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

The justifications put forth by the applicant in support of the application are detailed in the Supplementary Planning Statement at **Appendix Ia**. They are summarized as follows:

- (a) The proposed development is a temporary use which would not jeopardize the planning intentions of “OU(BTP)”, “OU(A)” and ‘Road’ zones.
- (b) The proposed development is not incompatible with the surrounding environment which is mainly occupied by similar uses, such as vehicle repair workshops and rural workshops.

- (c) The Site is the subject of several previously approved applications. All approval conditions of the previous planning permission (No. A/KTN/18 for the same vehicle parking use) were complied with. The last planning approval (No. A/KTN/45) for temporary warehouse was approved on 6.7.2018, but the plan for converting the Site into warehouse use was abandoned due to financial reason. The environment pertaining to the Site remains unchanged since the last planning approval granted in 2018.
- (d) The Site is located in close proximity to the border, which is considered as an ideal location to serve the cross-border coaches and container trailers.
- (e) The traffic generated by the proposed development is insignificant. Besides, adequate space for manoeuvring would be provided within the Site. The proposed development would not aggravate traffic condition of the adjacent area.
- (f) The proposed development would generate neither significant environmental nor noise disturbance to the residents in the area. In accordance with the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites', the access area at the site frontage and 5m strip of the area beyond the access gate is hard paved to avoid any fugitive dust impact and the opening time will be restricted to 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays. Most of the existing trees within the Site are in good conditions, except 6 trees were found dead and will be replaced.
- (g) Drainage facilities have been provided at the Site to comply with the approval condition of the previous planning approval. During the approval period, no flooding has occurred at the Site and its close proximity. All existing drainage facilities at the Site will be maintained by the applicant and the precautionary measures will be taken to ensure the unobstructed flow of surface runoff from the adjacent areas.

### **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 application notice outside the Site and sending notice to the Sheung Shui District Rural Committee (SSDRC) by local registered post. Detailed information would be deposited at the meeting for Members' inspection.

#### **4. Background**

The Site is currently not subject to any active enforcement action. 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 will be taken.

#### **5. Town Planning Board Guidelines**

The Site falls within Category 3 area under the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13E) promulgated on 17.10.2008. The relevant extract of the Guidelines is attached at **Appendix II**.

#### **6. Previous Applications**

- 6.1 The Site is involved in 11 previous applications mainly for temporary uses and all were approved by the Committee. Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 The first 9 previous applications (No. A/DPA/NE-KTN/18, No. A/NE-KTN/47, 56, 67, 82, 91, 111, 133 and 149) were approved with conditions by the Committee between 1993 and 2011, where the first application No. A/DPA/NE-KTN/18 fell within “Unspecified Use” and the other 8 applications were within “Agriculture” and ‘Road’ zones on the then statutory plans. Except for the first application for warehouse and workshop, the subsequent 8 previous applications were for temporary lorry and container trailer park, with or without ancillary vehicle repair workshop.
- 6.3 The remaining 2 previous applications (No. A/KTN/18 and 45) fell within the current “OU(A)” and “OU(BTP)” zones and ‘Road’ area. Application No. A/KTN/18 for the same temporary use as the applied use was approved on 18.9.2015 mainly on grounds that the temporary use would not frustrate the long-term planning intention of the KTN New Development Area (NDA), was not incompatible with the existing surrounding land uses and would unlikely have significant adverse impacts on the surrounding area, environmental concern could be addressed by imposing approval conditions, and the application generally complied with the TPB PG-No. 13E in that the Site was the subject of previous planning approvals. All approval conditions were complied with. The planning permission lapsed on 19.9.2018. The last application No. A/KTN/45 for temporary warehouse for storage of electronic goods was approved on 6.7.2018 for 3 years up to 6.7.2021 mainly on the similar grounds. However, the planning permission was revoked on 6.1.2020 due to non-compliance of approval conditions relating to paving of the vehicular access area of the Site, fire service installations and landscape. According to the applicant, the plan for converting the Site into warehouse was abandoned due to

financial reason. The current application and previous applications No. A/KTN/18 and 45 are submitted by three different applicants.

## **7. Similar Application**

There is one similar application No. A/KTN/44 within the same “OU(A)” and OU(BTP)” zones and area shown as ‘Road’, which is next to the Site, for temporary coach, container tractor and trailer park. It was approved by the Committee on 15.6.2018 for a period of 3 years mainly on similar grounds of the previous applications on the Site. However, the planning permission was revoked on 15.12.2018 due to the non-compliance with approval conditions. Subsequently, a new planning approval (No. A/KTN/52) covering part of the site for temporary vehicle repair workshop was granted on 18.1.2019 for a period of 3 years. Details of this application are summarized at **Appendix IV** and its location is shown on **Plan A-2a**.

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

8.1 The Site is:

- (a) currently used for the applied use without valid planning permission;
- (b) hard-paved, mostly fenced off; and
- (c) accessible from Castle Peak Road – Kwu Tung.

8.2 The surrounding areas are predominantly rural in character and occupied by farmlands, domestic structures, open storage, logistic use, car parks and rural workshops, of which some are suspected unauthorised developments:

- (a) to the north and northeast are some domestic structures, car parks, a car repair workshop, a stone factory, a workshop and some active and fallow agricultural land;
- (b) to the immediate east are a car park and a lorry park with vehicle repair workshop, and to the further east are logistic centre and some active and fallow agricultural land;
- (c) to the south are Castle Peak Road – Kwu Tung and Fanling Highway; and
- (d) to the west are a car trading shop and Kwu Tung Road.

**9. Planning Intention**

- 9.1 The planning intention of the “OU(A)” zone is primarily for the provision of landscaping and planting to enhance the environment.
- 9.2 The planning intention of the “OU(BTP)” zone is primarily for medium-density development to provide a mix of commercial, office, design, research and development uses for promoting high technology business development.
- 9.3 The 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 879 S.A RP, 879 S.B RP (Part) and 880 S.C RP (Part) in D.D. 92 and the adjoining Government land. The lots are Old Schedule agricultural lots held under Block Government Lease. The applicant should make its own arrangement, and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the proposed use;
- (b) application Lots 879 S.A RP and 879 S.B RP in D.D. 92 are covered by a valid Short Term Waiver (STW) No. 1413 for the purpose of a lorry and container trailer park. The total roof-over area of the existing structures within the STW concerned exceeds the permitted one;
- (c) the Site includes a valid Short Term Tenancy (STT) No. 1271 for the purpose of a lorry and container trailer park. The total roof-over area of the existing structures within the STT concerned exceeds the permitted one;
- (d) the development schedule indicates a toilet will be erected on the Site. The applicant should note that any proposed septic tank and soakage pit system should meet current health requirements, and has to apply for Certificate of Exemption (Drainage Works) from his office in advance;

- (e) the existing structures on application Lot 880 S.C RP in D.D. 92 were erected without approval from his office, and are not acceptable under the Lease concerned. His office reserves the right to take necessary lease enforcement actions;
- (f) if the planning application is approved, the owner of Lot 880 S.C RP in D.D. 92 shall apply to his office for a STW to cover the existing structures erected on the lot concerned. The waiver fee would be backdated to the first date of occupation and appropriate terms will apply, if approved. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If it is approved, its commencement dates would be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of rental and administrative fees as considered appropriate by his office;
- (g) the tenant of STT No. 1271 should apply to his office for regularization of the total roofed-over area of the existing structures erected on STT area concerned; and
- (h) the waiveree of STW No. 1413 should apply to his office for regularization of the total roofed-over area of the existing structures erected on STW area concerned.

### **Traffic**

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

- (a) he notes that the proposed vehicular access to the Site is via Castle Peak Road – Kwu Tung. With the view that the traffic generation from/attracted to the application is similar to the previous approved applications and vehicle can manoeuvre within the Site without reversing on the public road, he considers that the application can be tolerated from traffic engineering viewpoint;
- (b) the applicant should check with the lands authority regarding the land status of the local access road leading to the Site from the Castle Peak Road – Kwu Tung. The management and maintenance responsibilities of the access should also be clarified with the relevant lands and maintenance authorities accordingly.

### **Future Development**

#### 10.1.3 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. The Site falls within the Remaining Phase of KTN NDA project.

### **Environment**

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

- (a) he does not support the application since the applied use is expected to generate traffic of heavy vehicles and there are domestic uses within 100m of the site boundary (the nearest domestic structures are to the immediate north of the Site). Environmental nuisance to nearby residents is anticipated;
- (b) there was no environmental complaint case related to the Site from 2015 to 2019; and
- (c) should the application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites'.

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

the Site is in an area where no public sewerage connection is available.

### **Drainage**

#### 10.1.6 Comments of the CE/MN, DSD:

- (a) he has no objection to the application from public drainage viewpoint; 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 area.

### **Landscape**

- 10.1.7 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
- (a) with reference to the aerial photo taken in 2018, the Site is situated in the area of rural landscape character. The surrounding area of the Site is comprised of temporary structures, car parks and clustered tree groups. The proposed use is considered not incompatible with existing landscape setting in the proximity;
  - (b) according to the aerial photo taken in 2018, the Site was hard paved and the temporary structures were already in place. With reference to the Planning Statement, existing trees within the Site will be preserved. As further significant adverse landscape impact arising from the development is not anticipated, she has no objection to the application from the landscape planning perspective;
  - (c) in view that there are existing trees surrounding the northern, western and south-western boundary outside the Site, it is opined that the landscape condition in the planning permission is not recommended, should the application be approved by the Committee; and
  - (d) her advisory comments are at **Appendix V**.

### **Fire Safety**

- 10.1.8 Comments of the Director of Fire Services (D of FS):
- (a) he has no in-principle objection to the application subject to fire service installations (FSIs) being provided to the satisfaction of his department;
  - (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval and the submission requirements are at **Appendix V**; and
  - (c) if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

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

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

he has consulted the locals. The Chairman of SSDRC and the North District Council (NDC) member of the subject constituency object to the application mainly on the grounds of adverse traffic, sewerage and noise impact and endangering pedestrian safety. The Resident Representative (RR) of Kwu Tung (North) has no comment on the application and the RR of Kwu Tung (South) did not reply by deadline.

10.2 The following Government departments have no objection/adverse comment on the application:

- (a) Chief Estate Surveyor/Acquisition, LandsD (CES/A, LandsD);
- (b) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (c) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) (advisory comments at **Appendix V**);
- (e) Director of Agriculture, Fisheries and Conservation (DAFC);
- (f) Commissioner of Police; and
- (g) Director of Electrical and Mechanical Services (DEMS).

### **11. Public Comment Received During Statutory Publication Period**

No public comment is received during the statutory public inspection period.

### **12. Planning Considerations and Assessments**

12.1 The application is for temporary coach and container trailer parking with ancillary vehicle repair workshop at the Site for a period of 3 years. The Site falls within an area zoned "OU(A)", "OU(BTP)" and an area shown as 'Road' on the approved KTN OZP No. S/KTN/2 (**Plan A-1**). The applied use is not in line with the planning intention of the above zonings which are mainly for amenity, business and technology park or road uses under the KTN NDA development. However, the Site falls within the Remaining Phase of KTN NDA project and CEDD is studying its detailed design. Development on the Site will not commence in the coming years. PM/N, CEDD has no objection to the application in relation to the implementation of the NDA. In view of the above, approval of the application on a temporary basis for 3 years would not jeopardize the long-term development of the Site.

- 12.2 The applied use is not incompatible with the existing surrounding land uses which comprise mainly vehicle parks, car repair workshops, workshops, logistic centres, car trading shop intermixed with some domestic structures (**Plan A-2a**). The Site is currently used for the applied use without valid planning permission, while planning permission was granted in 2015 under A/KTN/18 for the same use. The planning permission lapsed on 19.9.2018.
- 12.3 The Site falls within Category 3 areas under the TPB PG-No. 13E promulgated by the Board on 17.10.2008. The application generally complies with the TPB PG-No. 13E in that the Site was the subject of previous planning approvals. Concerned Government departments except DEP have no objection to the application. CE/MN, DSD and CTP/UD&L, PlanD have no objection/adverse comment on the application from drainage and landscape perspective. C for T considers that the application can be tolerated from traffic engineering viewpoint. Although DEP does not support the application as the proposed use is expected to generate environmental nuisance to residents in the vicinity of the Site, no environmental complaint was received in the past five years. The concern of DEP on possible environmental nuisance to surrounding areas could be addressed through the incorporation of approval conditions restricting the operating hours and days in paragraph 13.2 (a) and (b) below. Any non-compliance with the approval conditions will result in revocation of the planning permission. Besides, the applicant would be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP in order to minimise any possible environmental nuisances.
- 12.4 The Site was granted planning permissions 9 times for similar vehicle park with ancillary vehicle repair workshop between 1997 and 2015. The second last previous application No. A/KTN/18 for the same temporary vehicle park use with vehicle repair workshop was approved by the Committee on 18.9.2015 as stated in paragraph 6.3 above. The last previous planning application No. A/KTN/45 for temporary warehouse was approved on 6.7.2018, but revoked on 6.1.2020. According to the applicant, the plan for converting the Site into warehouse use was abandoned. The current application and the previous applications No. A/KTN/18 and 45 are submitted by three different applicants.
- 12.5 While there is no public comment on the application, there are 2 local objections conveyed by DO(N) as stated in paragraph 10.1.9 above. In this regard, the relevant Government departments’ comments and the planning assessments as stated in paragraphs 12.1 to 12.4 above are relevant.

### **13. Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the local views and public comments mentioned in paragraphs 10.1.9 and 11, the Planning Department considers that the temporary coach and container trailer

parking with ancillary vehicle repair workshop 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 until 6.3.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) 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 **6.9.2020**;
- (d) in relation to (c) 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 **6.12.2020**;
- (e) 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 **6.9.2020**;
- (f) in relation to (e) above, the implementation of drainage proposal with 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **6.12.2020**;
- (g) if any of the above planning conditions (a) or (b) 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
- (h) if any of the above planning conditions (c), (d), (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.

Advisory clauses

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

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 proposed development would not cause adverse environmental impact on the 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 conditions and advisory clauses, 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**

<b>Appendix I</b>	Application Form and a letter with drawings received on 13.1.2020
<b>Appendix Ia</b>	Supplementary Planning Statement
<b>Appendix Ib</b>	Further Information received on 21.2.2020
<b>Appendix II</b>	Extract of Town Planning Board Guidelines No. 13E
<b>Appendix III</b>	Previous Applications
<b>Appendix IV</b>	Similar Application
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Landscape and Tree Preservation Plan
<b>Plan A-1</b>	Location Plan
<b>Plans A-2a and A-2b</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos