

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

**APPLICATION NO. A/KTN/36**

<b><u>Applicant</u></b>	Ms. Cheung Kam Yin
<b><u>Site</u></b>	Lots 664 RP (Part), 665 RP, 667 and 672 (Part) in D.D. 96, Kwu Tung, Sheung Shui, New Territories
<b><u>Site Area</u></b>	1,950 m <sup>2</sup>
<b><u>Lease</u></b>	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	Approved Kwu Tung North Outline Zoning Plan (OZP) No. S/KTN/2
<b><u>Zoning</u></b>	“Other Specified Uses (Amenity Area)” (“OU(A)”) (about 59.4%); and an area shown as ‘Road’ (about 40.6%)
<b><u>Application</u></b>	Temporary Public Vehicle Park for Private Cars and Light Goods Vehicles with Ancillary Resting Room and Office for a Period of 1 Year

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary public vehicle park for private cars and light goods vehicles with ancillary resting room and office at the application site (the Site) for a period of 1 year. The Site falls within an area zoned “OU(A)” and an area shown as ‘Road’ on the approved Kwu Tung North OZP No. S/KTN/2 (**Plan A-1**). According to the Notes of the OZP, temporary use not exceeding a period of 3 years requires permission of the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is the subject of two previous planning applications No. A/KTN/14 and A/KTN/24 approved by the Rural and New Town Planning Committee (the Committee) on 8.5.2015 and 22.4.2016 respectively for similar temporary public vehicle park use, but they were revoked on 8.2.2016 and 22.1.2017 respectively due to non-compliance of approval conditions relating to drainage, fire service installations and landscape aspects. As compared with the previous applications, the current application is submitted by a different applicant with a slightly different applied use. The Site is currently used for vehicle park without valid planning permission.
- 1.2 According to the applicant’s submission, the applied development comprises 15

private car parking spaces, 10 light goods vehicle parking spaces and 2 one-storey structures of 3m and 3.8m in height, with a total Gross Floor Area (GFA) of 200.2m<sup>2</sup> for staff resting room and office (**Drawing A-1**). The Site is accessible by a track leading from Castle Peak Road – Chau Tau. Vehicle manoeuvring space is proposed within the Site. As shown in the Traffic Impact Assessment (TIA) submitted by the applicant, the estimated traffic generated by the applied development at AM and PM peak hours are 21 and 27 passenger car unit (pcu) per hour respectively. The operation hours are from 8:00 a.m. to 8:00 p.m., during Mondays to Saturdays, and no operation on Sundays and Public Holidays. The applicant has not submitted proposals on drainage and landscape.

1.3 In support of the application, the applicant has submitted the following document:

- (a) Application form received on 23.6.2017 **(Appendix I)**
- (b) Further Information (FI) received on 6.10.2017 providing responses to the comments of Transport Department (TD) **(Appendix Ia)**  
*(accepted and exempted from publication and recounting requirements)*
- (c) FI dated 5.1.2018 providing a TIA and a revised layout **(Appendix Ib)**  
*(accepted but not exempted from publication and recounting requirements)*
- (d) FI dated 16.4.2018 providing a revised TIA, response to departmental comments and a revised layout with revision to vehicle parking spaces **(Appendix Ic)**  
*(accepted but not exempted from publication and recounting requirements)*
- (e) FI dated 7.6.2018 providing clarifications on the resting room **(Appendix Id)**  
*(accepted and exempted from publication and recounting requirements)*

1.4 The application was originally scheduled for consideration by the Committee on 11.8.2017. On 11.8.2017, 10.11.2017 and 2.3.2018, the Committee agreed to defer a decision on the application as requested by the applicant to allow time for the applicant to prepare FI to address departmental comments. Upon receipt of the last FI submitted by the applicant on 16.4.2018, the application is rescheduled for consideration by the Committee at this meeting on 15.6.2018.

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

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the Application Form at **Appendix I, Appendices Ib and Ic**. They are summarized as follows:

- (a) The Site falls within the Kwu Tung North New Development Area (KTN NDA). Before land resumption by the Government, the Site could be fully utilized.
- (b) There would be security guards on duty in the temporary vehicle park. This can avoid illegal dumping within the unused land.

- (c) The operation hours would not disturb nearby residents to take rest.
- (d) Sufficient manoeuvring space is proposed within the Site. No vehicle reversing outside the Site and no queueing of traffic outside the Site are expected. Traffic movement and manoeuvring of vehicles would be self-contained and would not affect public roads outside the premises of the Site.
- (e) Traffic generated from the applied development is negligible and would not adversely affect the traffic condition of the adjacent road network.

### **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. 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. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Background**

There is no active enforcement case on the Site. Investigation is underway to ascertain whether the current use of the Site constitutes an unauthorized development. Should there be sufficient evidence to prove that the current use of the Site is an unauthorized development under the Town Planning Ordinance, appropriate enforcement action will be taken.

### **5. Previous Applications**

- 5.1 The Site is the subject of two previous applications No. A/KTN/14 and A/KTN/24 for similar temporary public vehicle park use. Details of the previous applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 Application No. A/KTN/14 and A/KTN/24 both for temporary public vehicle park (including private cars, light good vehicles and medium goods vehicles) with ancillary resting room, storage containers and office were approved with conditions by the Committee on 8.5.2015 for 2 years and on 22.4.2016 for 1 year mainly on grounds that the proposed development would not frustrate the long-term planning intention of the Site, was not incompatible with the surrounding land uses and would unlikely have significant adverse impact on the surrounding areas. However, the planning permissions were revoked on 8.2.2016 and 22.1.2017 due to non-compliance with approval conditions relating to drainage, fire service installations and landscape. The applicant of the current application is different from the two previous planning applications and the applied use is slightly different in that no parking of medium goods vehicle is proposed in the current application.

## **6. Similar Application**

- 6.1 There is a similar application No. A/KTN/26 within the same “OU(A)” zone and ‘Road’ area. Details of the similar applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 Application No. A/KTN/26 for temporary container vehicle park with ancillary office and workshop was approved with conditions by the Committee on 13.5.2016 for a period of 1 year mainly on grounds that the applied development would not frustrate the long-term planning intention of the Site, was not incompatible with the surrounding land uses, would unlikely have significant adverse impact on the surrounding areas and was generally in line with TPB PG-No.13E in that most Government departments did not have adverse comments on the application. However, the planning permission was revoked on 13.2.2017 due to non-compliance with approval condition relating to implementation of landscape proposal.

## **7. The Site and Its Surrounding Areas (Plans A-1, A-2 and photos on Plans A-3, A-4a and A-4b)**

- 7.1 The Site is:
- (a) partly paved and fenced-off, and mainly used for vehicle park; and
  - (b) accessible via Castle Peak Road – Chau Tau and a track.
- 7.2 The surrounding areas have the following characteristics:
- (a) to its immediate east are domestic structure and active agriculture farmland;
  - (b) to its immediate west is a car park, to its further west are domestic structures;
  - (c) to its north are plant nursery and unused land, to its further north are domestic structures, workshop and vacant land;
  - (d) to its immediate northeast is a lorry park and further northeast are active/fallow agriculture farmland and domestic structures; and
  - (e) to its south is the Castle Peak Road – Chau Tau.

## **8. Planning Intention**

The planning intention of the “OU(A)” zone is intended primarily for the provision of landscaping and planting to enhance the environment. The area shown as ‘Road’ is intended for development of road.

## **9. Comments from Relevant Government Departments**

9.1 The following Government departments have been consulted and their views are summarized as follows:

### **Land Administration**

9.1.1 Comments of the District Lands Officer/ Yuen Long, Lands Department (DLO/YL, LandsD) based on the applicant's information:

- (a) the Site comprises Old Schedule Agricultural Lots 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;
- (b) the Site is accessible to Castle Peak Road – Chau Tau through Government land only. His office provides no maintenance work for the Government land involved and does not guarantee any right-of-way;
- (c) the Site does not fall within Shek Kong Airfield Height Restriction Area; and
- (d) should planning approval be given to this application, the lot owners will need to apply to his office to permit the structures to be erected or regularize any irregularity on site. Such application will be considered by LandsD acting in the capacity of the landlord at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

### **Traffic**

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

- (a) he considers that the application can be tolerated from traffic engineering viewpoint based on the FI submitted by the applicant providing an assessment of traffic impact and demonstrating that no vehicles will reverse on public roads; and
- (b) the Site connects Castle Peak Road via a local village track, which is not managed by his department. In this regard, the land status of the access leading to the Site should be checked with the lands authority. The management and maintenance responsibilities of the access should also be clarified with the relevant lands and maintenance authorities accordingly.

9.1.3 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

The section of Castle Peak Road (Chau Tau) adjacent to the subject lot is under HyD's maintenance purview. However, the existing vehicular access between Castle Peak Road (Chau Tau) and the Site falls on unallocated Government land (UGL) which is outside HyD's maintenance purview. The applicant is required to sort out the maintenance responsibility of the affected UGL with DLO/YL, LandsD.

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

he has no comment in principle subject to no activities in any form, whatsoever associated with Parallel Trading/General Mechanise Operations (GMO) activities and illicit refuelling activities.

**Future Development**

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

he has no comment on the application. The Site is partly within the site boundary of the Advance Works of KTN NDA project.

9.1.6 Comments of the Chief Estate Surveyor/Acquisition, Lands Department (CES/A, LandsD):

part of the Site (i.e. portion of Lot No. 672 in D.D. 96) falls within the project limit of the Advance Site Formation and Engineering Infrastructure Works of the KTN NDA. He has no objection to the application from land acquisition point of view as long as the applicant will be advised that the Site might be subject to land resumption at any time before the expiry of the planning permission.

**Environment**

9.1.7 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 structure is in the immediate east of the Site). Environmental nuisance to nearby residents is anticipated;
- (b) there is no environmental complaint case related to the Site from January 2015 to March 2018; and
- (c) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest 'Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses'.

### **Landscape**

- 9.1.8 Comments of the Chief Town Planner/Urban Design & Landscape, PlanD (CTP/UD&L, PlanD):
- (a) he has no objection to the application from the landscape planning perspective;
  - (b) the Site is the subject of approved applications No. A/KTN/14 and A/KTN/24 and he has no objection to A/KTN/24 from the landscape planning perspective;
  - (c) as the Site is in operation and there is no significant change in site condition, additional adverse landscape impact arising from applied development is not anticipated. According to his record, landscape proposals were submitted twice on 17.6.2016 and 20.12.2016 for compliance with approval condition under the previous planning permission but were considered not acceptable from landscape planning perspective; and
  - (d) should the application be approved, an approval condition requiring the submission and implementation of landscape proposal is recommended.

### **Drainage**

- 9.1.9 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;
  - (b) the Site is in an area where no public sewer connection is available; and
  - (c) 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. General requirements in the drainage submission are at **Appendix V**.

### **Building Matters**

- 9.1.10 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
- (a) there is no record of approval by the Building Authority for the structures existing at the Site and his department is not in a position to offer comments on their suitability for the use related to the application; and

- (b) the advisory comments are at **Appendix V**.

### **Fire Safety**

#### 9.1.11 Comments of the Director of Fire Services (D of FS):

he has no in-principle objection to the application subject to fire service installations and water supplies for firefighting being provided to the satisfaction of his department. Emergency Vehicular Access arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by BD. Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.

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

#### 9.1.12 Comment of the District Officer/North, Home Affairs Department (DO/N, HAD):

he has consulted the locals on the application from 4.7.2017 to 21.7.2017, on the FI dated 5.1.2018 from 26.1.2018 to 2.2.2018 and on the FI dated 16.4.2018 from 3.5.2018 to 18.5.2018. The Chairman of SSDRC raised objection to the application and the FI dated 16.4.2018 but had no comment on the FI dated 5.1.2018. The North District Council (NDC) member of the subject Constituency raised objection to the application but had no comment on the two FIs. The Resident Representatives (RRs) of Kwu Tung (North) and Kwu Tung (South) raised objection to the application and the two FIs. The RR of Yin Kong was consulted on the FI dated 16.4.2018 and raised objection. The objection raised mainly on the following grounds:

- (a) the Site is close to residential dwellings. The applied development would create environmental nuisance in terms of noise and air to the nearby residents;
- (b) the Site is close to Pak Shek Au Interchange which is busy while the traffic to Sheung Shui via Castle Peak Road is saturated. The applied vehicle park would cause traffic congestion and traffic accidents. This would endanger the pedestrians (especially the residents) as the village road is narrow and steep. Vehicle-pedestrian conflicts are expected;
- (c) the applied vehicle park is not close to the major residential areas and is not convenient to those in need of car park. It is not at a suitable location. There is shortage of car parking space in the vicinity of Kwu Tung Market Shopping Centre and ex-Lady Ho Tung Welfare Centre, and there are some large housing estates nearby; and
- (d) unauthorized canteen is in operation within the Site causing adverse impacts to the area in terms of sewerage, environment, air, noise,



hygiene, etc.

9.2 The following Government departments have no comment on/no objection to the application:

- (a) Head of Geotechnical Engineering Office, CEDD;
- (b) Director of Agriculture, Fisheries and Conservation;
- (c) Chief Engineer/Construction, Water Supplies Department; and
- (d) Director of Electrical and Mechanical Services (the advisory comments are at **Appendix V**).

## **10. Public Comments Received During Statutory Publication Period**

The application and the FIs dated 5.1.2018 and 16.4.2018 were published for public inspection on 30.6.2017, 12.1.2018 and 27.4.2018 respectively. During the statutory public inspection periods, a total of 13 public comments were received (**Appendices IVa to IVm**). Four commenters from the general public have no comment on the application. One comment submitted by the general public supports the application as the applied development would be convenient to the concerned person. Another eight comments submitted by two NDC members (one made two submissions) and three general public (one made three submissions) have adverse comments on the application mainly on grounds that:

- (a) the Site is close to Pak Shek Au Interchange which is busy. The applied vehicle park would cause traffic congestion and traffic accidents. There are residential dwellings nearby. The applied vehicle park would endanger the pedestrians (especially the residents). Vehicle-pedestrian conflicts are expected. Besides, the applied development would cause adverse noise and environmental impacts. The Site has been converted from farmland to vehicle park and has been affecting the daily life of local residents for two years;
- (b) the applied vehicle park is not close to the major residential areas and is not convenient to those in need of car park. It is not at a suitable location. There is shortage of car parking space in the vicinity of Kwu Tung Market Shopping Centre and the ex-Lady Ho Tung Welfare Centre, and there are some large housing estates nearby;
- (c) approval of such inefficient land use is not justifiable; and
- (d) the operator has not complied with one or more previous approval conditions. The Board should not grant planning permission.

## **11. Planning Considerations and Assessments**

11.1 The application is for temporary public vehicle park for private cars and light goods vehicles with ancillary resting room and office at the Site for a period of 1 year within an area zoned "OU(A)" and an area shown as 'Road' (**Plan A-1**). The applied development is not in line with the planning intention of "OU(A)" zone and 'Road' designation. Although the Site falls within the advance Works of the KTN NDA project, both PM/N, CEDD and CES/A, LandsD have no objection to the application

in relation to implementation of the NDA. In view of the above, approval of the application for 1 year would not jeopardize the long-term development of the Site.

- 11.2 The applied development is not incompatible with the existing surrounding land uses which comprise mainly car park, lorry park, workshop and active and fallow agricultural farmland intermixed with some domestic structures. Having considered the revised TIA submitted by the applicant (**Appendix Ic**) providing an assessment of traffic impact and demonstrating that no vehicles will reverse on public roads, C for T considers that the application can be tolerated from traffic engineering viewpoint. Besides, CE/MN, DSD and CTP/UD&L, PlanD have no objection to the application from drainage and landscape aspects. Although DEP does not support the application as there are sensitive uses near the Site, there is no environmental complaint received in the past 3 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 and prohibiting medium/heavy goods vehicles in paragraph 12.2 (a) to (c) 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 minimize any possible environmental nuisances.
- 11.3 The Site is involved in two previous approved applications (No. A/KTN/14 and 24) for similar temporary public vehicle park (including private cars, light good vehicles and medium goods vehicles). They were approved mainly on grounds that the proposed development would not frustrate the long-term planning intention of the Site, was not incompatible with the surrounding land uses and would unlikely have significant adverse impact on the surrounding areas. Besides, there is one similar application for temporary container vehicle park with ancillary office and workshop within the same “OU(A)” zone and ‘Road’ area approved by the Committee on 13.5.2016 for 1 year on similar grounds. Whilst the two previous permissions were revoked on 8.2.2016 and 22.1.2017 respectively due to non-compliance with approval conditions relating to drainage, fire service installations and landscape, the current applicant is submitted by a different applicant for a slightly different use and layout. Approval of the current application is in line with the Board’s previous decision.
- 11.4 There are 10 local objections as conveyed by DO(N) and 8 public comments having adverse comments on the application as mentioned in paragraphs 9.1.12 and 10 above. Planning considerations and departmental comments set out in paragraphs 11.2 to 11.3 above are relevant.

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

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the local views and public comments in paragraphs 9.1.12 and 10, the Planning Department considers that the temporary public vehicle park for private cars and light goods vehicles with ancillary resting room and office could be tolerated for a period of 1 year.
- 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 1 year until **15.6.2019**. The following conditions of approval with shorter compliance periods 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 operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no medium/heavy goods vehicles exceeding 5.5 tonnes including container tractors/trailers as defined in the Road Traffic Ordinance are allowed to/from the Site at any time during the planning approval period;
- (d) no reversing of vehicles into or out of the Site is allowed at any time during the planning approval period;
- (e) the submission of proposal for fire service installations and water supplies for fire-fighting within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **15.9.2018**;
- (f) in relation to (e) above, the implementation 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 **15.12.2018**;
- (g) the submission of drainage proposal within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **15.9.2018**;
- (h) in relation to (g) above, the implementation of drainage proposal with **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **15.12.2018**;
- (i) the submission of landscape proposal within **3** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **15.9.2018**;
- (j) in relation to (i) above, the implementation of landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **15.12.2018**;
- (k) if any of the above planning conditions (a), (b), (c) or (d) complied with during the planning approval period, the approved hereby given shall cease to have effect and shall be revoked without further notice; and
- (l) if any of the above planning conditions (e), (f), (g), (h), (i) or (j) 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**.

- 12.3 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 use would not cause adverse environmental impacts on the surrounding areas.

**13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the 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 received on 23.6.2017
Appendix Ia	FI dated on 6.10.2017
Appendix Ib	FI dated on 5.1.2018
Appendix Ic	FI dated on 16.4.2018
Appendix Id	FI dated on 7.6.2018
Appendix II	Previous Applications
Appendix III	Similar Application within the same “OU(A)” zone and ‘Road’ area
Appendices IVa to IVm	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Plan
Plans A-4a to 4b	Site Photos