

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

APPLICATION NO. A/KTN/62

<u>Applicant</u>	Mr. Man Shun-chai represented by Lanbase Surveyors Limited
<u>Site</u>	Lots 868 RP (Part), 869, 870, 871(Part), 872, 873 and 874 in D.D. 95, Kwu Tung North, Sheung Shui, New Territories
<u>Site Area</u>	about 10,200m ²
<u>Lease</u>	Old Schedule lot held under the Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Kwu Tung North Outline Zoning Plan (OZP) No. S/KTN/2
<u>Zoning</u>	“Residential (Group B)” (“R(B)”) (about 42.1%), “Open Space (1)” (“O(1)”) (about 8.3%), “Other Specified Uses” annotated “Business and Technology Park” (“OU(B&TP)”) (about 11.4%), “Other Specified Uses” annotated “Amenity Area” (“OU(A)”) (about 0.2%), and an area shown as ‘Road’ (about 38%)
<u>Application</u>	Renewal of Planning Approval for Temporary Container Trailer/Tractor Park for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission for temporary container trailer/tractor park at the application site (the Site) for a period of 3 years. The Site falls within “R(B)”, “O(1)”, “OU(B&TP)”, “OU(A)” zones 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, the proposed temporary use for a period of three years requires permission of the Town Planning Board (the Board). The Site falls within the Kwu Tung North New Development Area (KTN NDA). The Site is currently used for the applied use with planning permission granted under Application No. A/KTN/27 valid until 13.7.2019.
- 1.2 The Site is the subject of 7 previous applications which were all approved. The last Application No. A/KTN/27 submitted by the same applicant for the same use as the current application was approved by the Rural and New Town Planning Committee (the Committee) on 24.6.2016. The planning permission is valid until 13.7.2019 and all approval conditions have been complied with.
- 1.3 According to the submission, the Site is accessible at the northwest via a local track

connecting Ho Sheung Heung Road (**Plan A-1**). The layout of the current application are generally the same as the last approved scheme (Application No. A/KTN/27), i.e. 47 numbers of container/tractor parking spaces, except removal of the security shroff in the current application. The operation hours are the same as the last approved application which are from 8:00 a.m. to 9:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The existing vehicular access, noise mitigation measures, drainage facilities, landscaping features and fire precaution measures will be maintained. The existing noise mitigation measures include 3m/2.5m-high noise barrier along the Site boundary, 2.5m-high noise barrier alongside the local access road, well paved ground surface of the local access and the Site, placing speed limit signage along the local access road and limiting the operation hours. **Drawings A-1 and A-2** show the layout and implemented landscape proposal.

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

- (a) Application form received on 2.5.2019 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Further Information (FI) of 11.6.2019 **(Appendix Ib)**

2. Justifications from the Applicant

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

- (a) The Site was granted with 7 approved planning permissions for the same use from 2002 to 2016. Comparing the current application with the last approved application No. A/KTN/27, the parking facilities and the Site conditions remain the same. Without major change of planning circumstances, continuing the current use of “Temporary Container Trailer/Tracker Park” should be allowed.
- (b) All the approval conditions for the last application No. A/KTN/27 have been complied with.
- (c) Planning permissions for similar uses near the Site have recently been granted by the Board.
- (d) The applied use is compatible with the surrounding open storage, container parks and other port back-up uses.
- (e) The applied use is only temporary in nature which would not contravene the long-term development of the concerned zonings on the OZP.
- (f) The application is in line with TPB Guidelines No.13E – Town Planning Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG No.13E).
- (g) Considering the daily trip rate at the moment is less than that in the last application and limitation on operation hours for the applied use, no adverse traffic impact is anticipated. The Site is paved and implemented with properly maintained noise mitigation measures. No environmental impacts are anticipated. The existing

drainage facilities on site would be properly maintained to avoid surface run-off to surrounding roads.

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 sending notice to the concerned land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to active planning enforcement action.

5. Town Planning Board Guidelines

Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Uses or Development (TPG PG-No.34B)

5.1 According to the Town Planning Board Guidelines TPB PG-No. 34B, the relevant assessment criteria for assessing applications for renewal of planning approval are summarized below:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are major adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
- (d) whether the approval period sought is reasonable; and
- (e) any other relevant considerations.

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

5.2 The Site falls within Category 3 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 3 areas: normally not be favourably considered unless the applications are on sites with previous planning approvals. In this connection, sympathetic

consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments/proposals, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions, planning permission could be granted on a temporary basis up to a maximum period of 3 years.

6. Previous Applications

- 6.1 The Site is the subject of 7 previous applications (No. A/NE-KTN/93, 101, 108, 121, 140, 167 and A/KTN/27) for the same temporary container trailer/tractor park for three years. All were approved by the Committee. Details of the previous applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.
- 6.2 Applications No. A/NE-KTN/93, 101, 108, 121, 140 and 167 for the same use were approved between 2004 and 2013 on similar grounds that the proposed use was not incompatible with surrounding land uses; concerns on environmental and traffic impacts could be mitigated by relevant approval conditions; the proposed use was unlikely to have significant adverse traffic, drainage and environmental impacts on the surrounding areas; similar applications in the same zone had been approved; and the applications would not frustrate the planning intention of the zone.
- 6.3 The last Application No. A/KTN/27 submitted by the same applicant for the same applied use as the current application was approved by the Committee on 24.6.2016 on similar considerations. The planning permission is valid until 13.7.2019 and all approval conditions have been complied with.

7. Similar Applications

- 7.1 There are 3 similar applications (No. A/KTN 16, 53 and 60) involving two sites for temporary container tractor/trailer park/container vehicle park use mainly within 'Road' area/ "R(B)" zone on the same OZP. They were approved by the Committee from 2015 to 2019 mainly on 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 relevant approval conditions.
- 7.2 Details of the similar applications are summarised at **Appendix III** and the location is shown on **Plan A-1**.

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

- 8.1 The Site is:
 - (a) paved and partly fenced;
 - (b) currently used as a container trailer/tractor park with valid planning

permission; and

(c) accessible via a local track connecting Ho Sheung Heung Road.

8.2 The surrounding areas have the following characteristics:

- (a) to the north and northeast of the Site are logistic centres, storage yard and parking;
- (b) East Rail Lok Ma Chau Spur Line (underground) is to its north and the northern part of the Site is within the Railway Protection Boundary; and
- (c) to its east, south and west are mainly area with vegetation, fallow agricultural land, a nullah and a pond.

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 the application to the Board.
- 9.2 The “OU(B&TP)” is primarily intended 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 “O(1)” zone is primarily intended for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.
- 9.4 The “OU(A)” zone is primarily intended for the provision of landscaping and planting to enhance the environment.
- 9.5 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 on the application are summarized 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. 868(Part), 869, 870, 871 (Part), 872, 873 and 874 in D.D. 95. 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 (GL) will be allowed for the vehicle access of the proposed use;

- (b) the actual occupation boundary does not tally with that of the Site;
- (c) the existing structures on the Site were erected without approval from his office, and they are not acceptable under the Leases concerned. His office reserves the right to take enforcement actions against the aforesaid structures;
- (d) the GL adjacent to the Site is fenced off by hoardings, and being occupied without approval from his office. It was not acceptable and the applicant should cease the illegal occupation and remove those hoardings at its own cost. His office reserves the right to take land control actions against the unauthorized occupation of GL;
- (e) the Site may be affected by the limits of (i) Railway Protection Plan Boundary – Spur Line Protection Boundary; (ii) Vesting Boundary – East Rail Extension – Sheung Shui to Lok Ma Chau Spur Line; and (iii) Underground Strata Resumption KCRC East Rail Extension Sheung Shui to Lok Ma Chau Spur Line; and
- (f) if the 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 considers that the renewal application is tolerable from traffic viewpoint; and
- (b) the local track leading to the Site is not managed by Transport Department. The land status, management and maintenance responsibilities of the local track should be clarified with the relevant lands and maintenance authorities accordingly.

Railway

10.1.3 Comments of the Chief Engineer/Railway Development, Railway Development Office, Highways Department (CE/RD, RDO, HyD):

- (a) he has no objection to the application; and
- (b) the northern part of the Site falls within the railway protection boundary of the existing Lok Ma Chau Spur Line (**Plan A-2**), the Mass Transit Railway Corporation Limited (MTRCL) shall be consulted with respect to the operation, maintenance and safety of the

Lok Ma Chau Spur Line.

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. The Site falls within the Remaining Phase of the KTN NDA development.

Environment

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

- (a) he does not support the application as the applied use will attract heavy vehicle traffic and there are residential premises within 50m of the access road;
- (b) there is no environmental complaint case related to the Site for the past 3 years; and
- (c) should the application be approved, 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;

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

The Site is in an area where no public sewer connection is available.

Landscape

10.1.7 Comments of the Chief Town Planner/Urban Design & Landscape, PlanD (CTP/UD&L, PlanD):

- (a) he has no objection to the application. Based on the aerial photo of 2018, the surrounding area is comprised of open storage, temporary structures and scattered tree groups. The proposed use is considered not incompatible with the existing landscape setting in the proximity;
- (b) according to site visit conducted on 10.4.2019, the Site was fenced off and hard paved. Existing trees in fair to good conditions were found along the site boundary. Further significant adverse landscape impact arising from the continuous use of container tractor/trailer park is not anticipated; and
- (c) in view that there is no prominent public frontage along the Site, should the application, landscape condition in the planning permission is not recommended, as its effect on enhancing the quality of public realm is not apparent.

Drainage

10.1.8 Comments of the 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, the following conditions should be included to request the applicant to:
 - (i) submit a condition record of the existing drainage facilities implemented on the Site in the last planning application No. A/KTN/27. The condition record shall include clear photos showing the current conditions of all catchpits and each straight section of the existing drainage facilities, the locations and directions of the photos should be clearly marked on a copy of the drainage plan approved in the previous application; and
 - (ii) maintain these existing drainage facilities properly and rectify those facilities if they are found inadequate/ineffective.

Building Matters

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

he has no objection to the application and his advisory comments are at **Appendix V**.

Fire Safety

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

- (a) he has no in-principle objection to the application subject to Fire Services Installations (FSIs) being provided to the satisfaction of D of FS; and
- (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval. The applicant should also be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimension and nature of occupancy; and
 - (ii) the location of where the proposed FSI to be installed should be clearly marked on the layout plans.

District Officer's Comments

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

he consulted the locals from 16.5.2019 to 30.5.2019. The Chairman of Sheung Shui District Rural Committee, the North District Council (NDC) member of the subject Constituency and Resident Representative (RR) of Kwu Tung (North) have no comment the application. The RR of Kwu Tung (South) objects to the application mainly on traffic impact and pedestrian safety grounds.

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

- (a) the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Commissioner of Police (C of P);
- (c) Head of Geotechnical Engineering Office, CEDD (H(GEO), CEDD);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (e) Director of Electrical and Mechanical Services (DEMS).

11. Public Comments Received During Statutory Publication Period

On 10.5.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 31.5.2019, 2 public comments were received (**Appendices IVa and IVb**) from two individuals both indicate no comment on the application.

12. Planning Considerations and Assessments

12.1 The application is for renewal of planning permission for temporary container tractor/trailer park at the Site for a period of 3 years. The Site falls within “R(B)”, “O(1)”, “OU(B&TP)”, “OU(A)” zones and an area shown as ‘Road’ on the approved Kwu Tung North OZP No. S/KTN/2, and within the Remaining Phase of the KTN NDA development project. Although the applied use is not in line with the planning intentions of the concerned zonings, PM/N, CEDD has no comment on the application. In view of the above, approval of the application on a temporary basis would not jeopardize the long-term planning intention of the concerned zonings on the OZP.

12.2 The applied use is considered not incompatible with the surrounding land uses which comprise mainly logistic centres, open storage yards, workshops (**Plan A-2**).

12.3 The Site falls within Category 3 areas under the TPB PG-No. 13E promulgated by the Board on 17.10.2008. The relevant considerations are set out in paragraph 5.2. The application generally complies with the TPB PG-No. 13E in that the Site was previously approved for the same use and concerned Government departments have no major adverse comments on the application. Although DEP does not support the application, there is no environmental complaint case related to the Site for the past 3 years. To mitigate any potential environmental impacts, relevant approval conditions are recommended in paragraph 13.2 (a) to (e) below. The applicant is

also 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”.

- 12.4 The current application for the renewal of the planning permission under Application No. A/KTN/27 for the same use for a further period of 3 years is in line with TPB PG-No. 34B in that there is no material change in planning circumstance of the Site and its surrounding area since approval of the last application; concerned departments including C for T, CE/MN, DSD, D of FS and CTP/UD&L, PlanD have no adverse comment on the application; adverse planning implications arising from the renewal of the planning approval are not anticipated; and all the approval conditions under the previous application have been complied with.
- 12.5 The Committee has approved 7 previous applications for same use at the Site as detailed in paragraph 6. Approval of the current application is in line with the previous decision of the Committee.
- 12.6 Two public comments were received, but they indicate no comment on the application. There is one local view conveyed by DO(N) objecting the application mainly on traffic and pedestrian safety grounds (as stated in paragraphs 10.1.11). Relevant Government departments’ comments and planning considerations set out above are 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 comments in paragraphs 10.1.11 and 11, the Planning Department considers that the development under application 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 years, and be renewed from 14.7.2019 until **13.7.2022**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 9:00 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) the existing access road should be managed and maintained at all times during the planning approval period;
- (d) the existing noise mitigation measures should be managed and maintained at all times during the planning approval period;
- (e) the existing peripheral fencing should be maintained at all times during the planning approval period;
- (f) the existing drainage facilities shall be properly maintained and rectified if they

are found inadequate/ineffective at all times during the planning approval period;

- (g) the submission of a condition record of the existing drainage facilities implemented on the Site within 3 months from the date of commencement of renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **14.10.2019**;
- (h) the submission of proposal for fire service installations within 6 months from the date of commencement of renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **14.1.2020**;
- (i) in relation to (h) above, the provision of fire service installations within 9 months from the date of commencement of renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **14.4.2020**;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e) or (f) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (k) if any of the above planning conditions (g), (h) or (i) 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.

[Conditions mainly follow the previous approval conditions except the update based on latest departmental comments.]

Advisory clauses

The recommended advisory clauses are 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 applied use is not in line with the planning intention of concerned zonings on the OZP. There is no strong justification for a departure from the planning intentions 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 renewal of the planning 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 2.5.2019
Appendix Ia	Supplementary Planning Statement
Appendix Ib	FI of 11.6.2019
Appendix II	Previous Applications
Appendix III	Similar Applications
Appendices IVa and IVb	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Landscape Proposal approved under Application No. A/KTN/27
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2019**