

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/KTN/66

<u>Applicant</u>	Landmark Asia Property Limited represented by R-riches Property Consultants Limited
<u>Site</u>	Lots 916 (Part), 917 (Part), 918 (Part), 919 (Part) and 923 (Part) in D.D. 92, Kwu Tung North, New Territories
<u>Site Area</u>	2,085 m ² (about)
<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 (OZP) No. S/KTN/2
<u>Zoning</u>	“Other Specified Uses” annotated “Amenity” (“OU(A)”) (about 67.1%); and “Open Space” (“O”) (about 32.9%)
<u>Application</u>	Proposed Temporary Storage of Furniture with Ancillary facilities for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary storage of furniture with ancillary facilities at the application site (the Site) for a period of 3 years. The Site falls within Kwu Tung North New Development Area (KTN NDA) and is zoned “OU(A)” and “O” 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 in the concerned zones 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 currently vacant with some structures (**Plan A-3**).
- 1.2 According to the applicant’s submission, the development comprises two single-storey (2.5m and 8.23m in height) structures with a total floor area of 1,198.25 m². One structure (1,183 m²) is for storage of furniture with canopy for loading/unloading purpose and another (15.25 m²) is for a toilet (**Drawing A-1**). The Site is accessible from Castle Peak Road – Kwu Tung via a local track. Vehicular access is at the east of the Site. According to the submission, there is a medium goods vehicle (MGV) parking space in the Site. There will be sufficient space for manoeuvring of vehicle on site and no reversing of vehicles on public road. The operation hours are from 10 a.m. to 6 p.m. from Mondays to Saturdays and no

operation on Sundays and public holidays. It is anticipated to have 6 staff on site and the Site would not be open to public. No workshop activities would be carried out at the Site.

- 1.3 In support of the application, the applicant has submitted an application form with planning statement which was received on 20.8.2019 (**Appendix I**).

2. Justifications from the Applicant

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

- (a) The application for temporary use will not jeopardise the long term planning intention of the “OU(A)” and “O” zones. The applicant will reinstate the Site for amenity use upon the expiry of the planning permission.
- (b) There are applications for similar use being approved at the Site and the nearby. Approval of the current application would not set an undesirable precedent.
- (c) The proposed use is only for storage of furniture but not a warehouse for logistic purpose.
- (d) The “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” (CoP) will be followed to minimize the impacts to the surroundings.
- (e) There will be sufficient space for manoeuvring of vehicle on site and no reversing of vehicles on public road. Therefore, there will not be adverse traffic impact to the surroundings. The Site is accessible by public transport.
- (f) Should the application be approved, the applicant will comply with approval conditions, such as submission and implementation of drainage proposal/ landscape proposal/ fire services installation (FSI) plan, as required.

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

The applicant is not the current land owner of the lots in the Site 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.31A) 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 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. Previous Application

The Site is involved in one previous application No. A/DPA/NE-KTN/6. Details of this previous application are summarized at **Appendix II** and its location is shown on **Plan A-1**. This application, covering a larger area, was for proposed warehouse for storage of wood parts and wood planks when the area was zoned “Unspecified Use” (“U”) on the Development Permission Area (DPA) Plan. The application was approved by the Committee with conditions on 8.5.1992 for a period of 3 years on the grounds of environmental gain, i.e. replacing the timber workshop with a warehouse, and long-term use of the area not yet determined. The subject site was subsequently zoned “Industrial (Group D)” (“I(D)”) on the draft KTN OZP No. S/NE-KTN/1 exhibited on 27.5.1994 and the warehouse use at the site was always permitted under the “I(D)” zone. There was no change to the “I(D)” zone for the site until it was changed to the current zonings on 20.12.2013.

6. Similar Application

There is a similar application No. A/KTN/45 within a nearby “OU(A)” zone for proposed temporary warehouse for storage of electronic goods for a period of 3 years. Details of the similar application are summarized at **Appendix III** and the location is shown on **Plan A-1**. The application was approved by the Committee with conditions on 6.7.2019 for a period of 3 years mainly on the grounds that the temporary use would not frustrate the long-term planning intention and was not incompatible with the existing surrounding land uses.

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

7.1 The Site is:

- (a) hard paved, fenced off and currently vacant with some structures and construction materials; and
- (b) accessible from Castle Peak Road – Kwu Tung via local track.

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate south of the Sites are workshop, storage and a domestic structure; to its further south, east and northeast are mainly intermixed of logistic centres, warehouses and domestic structures. Some of such workshops, warehouses and open storages were in existence when the area was zoned “I(D)” before 20.12.2013 and were always permitted in the “I(D)” zone; and
- (b) to the north and west of the Sites are mainly cultivated and fallow agricultural land.

8. Planning Intentions

- 8.1 The planning intention of the “OU(A)” zone is primarily for the provision of landscaping and planting to enhance the environment.
- 8.2 The planning intention of the “O” zone is primarily 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. Comments from Relevant Government Departments

- 9.1 The following Government departments have been consulted and their views on the application received are summarized as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):
- (a) the Site comprises private lots, namely lots No. 916 (Part), 918 (Part), 919 (Part) and 923 (Part) in D.D. 92. 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 its own arrangement, and there is no guarantee that any adjoining Government Land (GL) will be allowed for the vehicular access of the proposed use;
 - (b) the application lots are covered by a valid Short Term Waiver (STW) No. 1256 for the purposes of a warehouse (excluding dangerous goods) with a total site coverage not exceeding 931m² and a maximum height not exceeding 6m;
 - (c) the total built-over area and height of the existing structures on the Site is larger than that of the permitted ones under STW No. 1256;
 - (d) the total built-over area of the existing structures on the Site is larger than that of the proposed one under the application;
 - (e) the actual occupation boundary, i.e. fencing on site, encroaches on Lot No. 741 S.F in D.D. 92 (**Plan A-2**), which is covered by STW No. 945. The applicant should exclude this lot from the site fencing;
 - (f) one of the existing structures on the Site was erected for toilet use. The applicant should note that any proposed septic tank and soakage pit system should meet current health requirements; and
 - (g) if the planning application is approved, the waivee of STW No. 1256 should apply to his office for modification of the terms and conditions of the STW concerned so as to cover all the existing structures on the concerned lots. If the modification is approved, it

will be subject to such terms and conditions to be imposed including payment of waiver fee for the additional site coverage and administrative fee as considered appropriate by his office. Further, the commencement date will be backdated to the first date of discovery.

Traffic

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

- (a) based on the applicant's submission, he considers that the application can be tolerated from traffic engineering viewpoint; and
- (b) the proposed vehicular access to the Site is via a local track connecting with Castle Peak Road – Kwu Tung. The local track leading to the Site is not managed by his department. The applicant should check the land status, management and maintenance responsibilities of the local track 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):

he has no comment on the application. The vehicular access leading from Castle Peak Road – Kwu Tung to the Site is not maintained by HyD.

Future Development

9.1.4 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. The Site falls within the Remaining Phase of KTN NDA project, which will commence in 2024 tentatively. His advisory comments are at **Appendix V**.

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

the Site falls within the project limit of the Remaining Phase of the KTN NDA without firm implementation programme at the moment.

Environment

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

- (a) based on applicant's submission, the proposed use will generate traffic of MGV. As there are residential premises within 100m of the Site boundary and within 50m of the access road to the Site, he does not support the application;

- (b) there is no environmental complaint case related to the Site in the past 3 years up to July 2018; and
- (c) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest CoP.

9.1.7 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

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 perspective;
- (b) in view of no prominent public frontage surrounding the Site, should the application be approved by the Board, landscape condition in the planning permission is not recommended, as its effect on enhancing the quality of public realm is not apparent.

Drainage

9.1.9 Comments of 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 requiring the submission and implementation of drainage proposal for the Site should be included to ensure that it will not cause adverse drainage impact to the adjacent areas. The 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) he has no objection to the application. There is no record of approval by the Building Authority for the existing buildings/structures at the Site and BD is not in a position to offer comments on their suitability for the proposed use; and
- (b) for proposed new buildings, the advisory comments under the Buildings Ordinance are at **Appendix V**.

Fire Safety

9.1.11 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 being provided to the satisfaction of his department;
- (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required and the submission requirements are at **Appendix V**; and
- (c) if the proposed structures are required to comply with the BO, detailed fire requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

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

he consulted the locals from 24.9.2019 to 8.10.2019. The North District Council (NDC) member of the subject Constituency supports the application. The Resident Representative (RR) of Yin Kong objects to the application mainly the grounds of adverse traffic impact and causing nuisance to the residents. The Chairman of Sheung Shui District Rural Committee, the RR of Kwu Tung (North) and the Indigenous Inhabitant Representative of Yin Kong have no comment the application.

9.2 The following Government departments have no adverse comment on the application. Their advisory comments, if any, are at **Appendix V**

- (a) Head of Geotechnical Engineering Office, CEDD (H(GEO), CEDD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Commissioner of Police (C of P); and
- (d) Director of Electrical and Mechanical Services (DEMS).

10. Public Comments Received During Statutory Publication Period

On 27.8.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, 2 public comments from individuals were received (**Appendices IV-1 and IV-2**). One indicates no comment on the application. Another one objects to the application mainly on the grounds that the proposed use should be accommodated in multi-level industrial building.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary storage of furniture with ancillary facilities for a period of 3 years. The Site falls within an area zoned "OU(A)" and

“O” on the approved KTN OZP No. S/KTN/2. The proposed use is not in line with the planning intentions of the concerned zonings. However, the Site falls within the Remaining Phase of the KTN NDA Project which will commence in 2024 tentatively, PM/N, CEDD has no comment on the application from project interface point of view. In view of this, approval of the application on a temporary basis would not jeopardize the long-term development of the concerned zonings on the OZP.

- 11.2 The proposed use is not incompatible with the existing surrounding land uses which comprise mainly workshops, warehouses, logistic centres and some domestic structures. Some of such workshops, warehouses and open storages were in existence when the area was zoned “I(D)” before 20.12.2013 and were always permitted in the “I(D)” zone.
- 11.3 Although DEP does not support the application due to concern on possible environmental nuisance to the sensitive uses near 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 the operating hours and activities on the Site are recommended in paragraph 12.2 (a) to (c). The applicant would be advised to follow the environmental mitigation measures as recommended in the latest CoP in order to minimise the potential environmental impacts on the adjacent area. C for T has no objection to the application. Relevant approval condition is recommended in paragraph 12.2 (d). Other concerned departments, including CE/MN, DSD and D of FS have no adverse comment on the application and their suggested approval conditions are recommended in paragraph 12.2 (e) to (h) below.
- 11.4 The Site is the subject of a previous application No. A/DPA/NE-KTN/6 for proposed warehouse for storage of wood which was approved with conditions by the Committee on 8.5.1992 when the Site was zoned “U” on the DPA Plan for a period of 3 years on the grounds of environmental gain and undetermined long-term use of the area. A similar application No. A/KTN/45 within a nearby “OU(A)” zone for temporary warehouse use was approved for 3 years with conditions by the Committee in 2019 mainly on the grounds of not frustrating the long-term planning intention, not incompatible with the surrounding land uses and no adverse comment from concerned departments, except DEP. Therefore, approval of the current application is in line with the previous decision of the Committee.
- 11.5 There are 5 local comments conveyed by DO(N) and 2 public comments as stated in paragraphs 9.1.12 and 10, of which 2 object to the application mainly on the grounds that the proposed use should be accommodated in industrial building and the adverse traffic impact and nuisance to the residents.

12. Planning Department’s Views

- 12.1 Based on the assessments 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 proposed temporary storage of furniture with ancillary facilities could be tolerated for a period of 3 years.
- 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 3 years until **18.10.2022**. 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 10:00 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 workshop activities are allowed to be carried out at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the submission of proposal for fire service installations 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 **18.4.2020**;
- (f) in relation to (e) above, the implementation of proposal for fire service installations 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 **18.7.2020**;
- (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 **18.4.2020**;
- (h) in relation to (g) 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 **18.7.2020**;
- (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 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 proposed development would not generate

adverse environmental impact 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 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. Attachment

Appendix I	Application form with planning statement received on 20.8.2019
Appendix II	Previous Application
Appendix III	Similar Application
Appendices IV-1 & IV-2	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 Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2019**