

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

**APPLICATION NO. A/NE-KTS/472**

<b><u>Applicant</u></b>	Mr. WONG CHUN HUNG and Ms. TO NU
<b><u>Site</u></b>	Lots 1669 S.A ss.1 RP (Part), 1670 S.A ss.1 RP, 1671 S.A ss.1, 1673 S.A and 1675 S.B ss.1 S.A RP (Part) in D.D. 100 and Adjoining Government Land, Kwu Tung South, Sheung Shui, New Territories
<b><u>Site Area</u></b>	1,086.3 m <sup>2</sup> (about) (including about 579.5 m <sup>2</sup> of Government Land (about 53.3%))
<b><u>Lease</u></b>	Old Schedule lots held under the Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	Approved Kwu Tung South Outline Zoning Plan No. S/NE-KTS/16
<b><u>Zoning</u></b>	“Recreation” (“REC”)
<b><u>Application</u></b>	Temporary Warehouse (Antique Vehicles, Food and Beverages) with Ancillary Office for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary warehouse (antique vehicles, food and beverages) with ancillary office for a period of 3 years (**Appendix Ic**). The Site falls within an area zoned “REC” on the approved Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/16. According to the Notes of the OZP, temporary use not exceeding a period of three years requires permission from the Town Planning Board (the Board). The Site is currently partly used for storage of antique vehicles without valid planning permission and partly vacant.
- 1.2 The Site, in part or in whole, is the subject of 5 previous applications No. A/NE-KTS/184, 251, 288, 340 and 415. The last application No. A/NE-KTS/415 submitted by the current applicants for temporary storage of pet supplies and beverages with ancillary office was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 15.7.2016 for a period of 3 years until 15.7.2019. All approval conditions of the last application have been complied with. The current application involves a different proposed use but the Site and layout are the same as the previous application (**Plan A-1**).

1.3 According to the applicant's submission, there are two single-storey warehouses of 6m in height on the eastern and western parts of the Site for storage of food and beverages as well as antique vehicles respectively. In addition, there are ancillary office, water tanks, pump room, store room, meter room and toilet (**Drawing A-1**). The total floor area is 760m<sup>2</sup>. The operation hours are from 8:00 a.m. to 6:00 p.m. from Monday to Saturday, and there is no operation on Sundays and public holidays. The Site is accessible from Fan Kam Road via a village road. There are two vehicular accesses one each to the two warehouses. There is one loading/unloading area for light goods vehicles within the eastern warehouse. The daily vehicular trip generation is 4. The layout plans are shown at **Drawings A-1** and **A-2**.

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

- |   |                        |
|---|------------------------|
| (a) Application Form with attachments received on 23.4.2019 | ( <b>Appendix I</b> )  |
| (b) Further Information (FI) received on 3.6.2019           | ( <b>Appendix Ia</b> ) |
| (c) FI dated 4.6.2019 (2 letters)                           | ( <b>Appendix Ib</b> ) |

## **2. Justification from the Applicant**

The justification put forth by the applicant in support of the application is detailed in **Appendix I** as follows:

The Site is the subject of a previous planning application No. A/NE-KTS/415. All approval conditions of the previous planning application in relation to tree preservation, drainage, transport and fire services requirements have been complied with. Thus, this new application should also be approved.

## **3. Compliance with the "Owner's Consent/Notification" Requirements**

The applicants are the sole "current land owner" of the private land within the Site. Detailed information would be deposited at the meeting for Members' inspection. For the portion of Government Land, the "Owner's Consent/Notification" Requirements is not applicable.

## **4. Background**

The Site is currently not subject to any active enforcement action. Should there be sufficient evidence to form an opinion of unauthorized development under the Town Planning Ordinance at the Site, enforcement action would be instigated as appropriate.

## **5. Previous Applications**

- 5.1 The Site involves 5 previous applications No. A/NE-KTS/184, 251, 288, 340 and 415 and all were approved by the Committee. Details of the applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 Applications No. A/NE-KTS/184 and 251 for temporary open storage of metal ware, metal workshop and detergent packaging, and Application No. A/NE-KTS/288 for temporary open storage of metal ware, metal workshop and vehicle repair workshop were approved with conditions for a period of 3 years by the Committee between 2004 and 2010. Application No. A/NE-KTS/184 was approved mainly on the grounds that the development was not incompatible with the surrounding land uses; the impact of the open storage would likely be less than the marble factory use previously existed on Site; and relevant Government departments had no objection to the application. Applications No. A/NE-KTS/251 and 288 were approved mainly on the grounds that the approval conditions for the previous application were complied with; the temporary approval would not frustrate the planning intention of the “REC” zone; the developments were not incompatible with the surrounding area; and there was no local objection or public comment against the application.
- 5.3 Applications No. A/NE-KTS/340 and 415 for temporary storage of metal ware and pet supplies and beverages respectively submitted by the same applicants of the current application were approved with conditions for a period of 3 years by the Committee on 5.7.2013 and 15.7.2016 respectively mainly on the grounds that the approval of the temporary use would not jeopardise the long-term planning intention of the “REC” zone; the development was considered not incompatible with the surrounding land uses and would unlikely cause significant adverse traffic, drainage and landscape impacts on the surrounding areas; there had been no major change in the land uses of the surrounding areas; and similar applications in the vicinity of the Site had been approved. All approval conditions for the last application A/NE-KTS/415 were complied with. The planning permission is valid until 15.7.2019.

## **6. Similar Applications**

- 6.1 There are 8 similar applications (No. A/NE-KTS/225, 240, 261, 305, 362, 367, 449 and 452) involving two sites within the same “REC” zone in the vicinity of the Site on the same OZP. They were all approved with conditions by the Committee.
- 6.2 6 applications No. A/NE-KTS/225, 240, 261, 305, 362 and 449 involving almost the same site for similar temporary godown were approved between 2006 and 2017 mainly on the grounds that the godown use was not incompatible with the surroundings uses and would unlikely have significant adverse environmental, traffic, drainage and landscape impacts. The last 3 applications No. A/NE-KTS/305, 362 and 449 are for renewal of the planning approvals and were approved on the considerations that the concerned site has been occupied by godown use since 2006; the applicant had complied with all

the approval conditions of the previous planning approvals; there had been no material change in planning circumstances and change in the land uses of the surrounding areas since the previous temporary planning approvals were granted; approval of the applications would not jeopardise the long-term planning intention of the “REC” zone; and the development was considered not incompatible with the surrounding land uses.

6.3 For applications No. A/NE-KTS/367 and 452, they involve another site for temporary storage of metal ware and temporary storage of cosmetic products, beverages and construction materials both for a period of 3 years, and approved with conditions by the Committee on 25.7.2014 and 16.3.2018 respectively. They were approved on similar grounds of not frustrating the long-term planning intention of the “REC” zone, not incompatible with the surrounding, and similar applications were approved by the Committee.

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

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

7.1 The Site is:

- (a) formed, fenced and accessible from Fan Kam Road via a road village; and
- (b) partly used for storage of antique vehicles without valid planning permission and partly vacant.

7.2 The surrounding areas have the following characteristics:

- (a) to its north are construction material business use, warehouses, and workshop. Domestic structures are to the further north;
- (b) to its east are storage of forklifts and recycle materials, and warehouses;
- (c) to its south across the village road are vehicle repair workshops, a restaurant, vehicle park, and some domestic structures; and
- (d) to its west across Fan Kam Road is a vehicle park, vacant land and a storage yard.

**8. Planning Intention**

The planning intention of the “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

## 9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views are summarised 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 No. 1669 S.A ss.1 RP (Part), 1670 S.A ss.1 RP, 1671 S.A ss.1, 1673 S.A and 1675 S.B ss.1 S.A RP (Part) all in D.D. 100 and adjoining Government land. The lots are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guarantee of right of access. The applicants should make their own arrangement for acquiring access. The Government shall accept no responsibility in such arrangement, and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the applied use;
- (b) a Modification of Tenancy No. 37723 (the MOT) was issued in 1971 to allow the erection and maintenance of 1 temporary structure on Lot No. 1670 S.A of which Lot No. 1670 S.A ss.1 RP was carved out, for dwelling purpose. At the time of site inspection, the dimensions of the existing structure do not tally with the ones permitted under the conditions of the MOT concerned;
- (c) two Government Land Licences (GLLs) viz. T12071 and T14306 are located within the Site. GLL T12071 was issued in 1969 to allow the erection of three temporary structures for uses including chicken shed, pigsty and shade. And GLL T14306 was issued in 1971 to allow the erection of three temporary structures for uses including dwelling, storage and shade. At the time of site inspection, the dimensions of the existing structures do not tally with the ones permitted under the conditions of the GLLs concerned;
- (d) the structures mentioned above are not acceptable under the Leases/GLLs/MOT conditions concerned and his office reserves the right to take necessary enforcement actions against them;
- (e) apart from the structures mentioned above, some temporary structures were erected on the Government land within the Site without prior approval from his office. His office reserves the right to take necessary land control actions against them;
- (f) the numbers and the total built-over area of the existing structures located in the Site do not tally with the ones

mentioned in the planning application; and

- (g) if the planning application is approved, the owner(s) of the lots concerned shall apply to his office for a Short Term Waiver (STW) and Short Term Tenancy (STT) covering 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**

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

- (a) the application is tolerable from traffic viewpoint;
- (b) the applicants are reminded that their vehicles should not reverse/ queue back on the local track and Fan Kam Road; and
- (c) the local track leading to the Site is not managed by his department. The land status, management and maintenance responsibilities of the local track should be clarified with the relevant lands and maintenance authorities accordingly.

### **Environment**

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

- (a) the applicant is advised to follow the environmental mitigation measures as recommended in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" in order to minimise the potential environmental impacts on the adjacent area; and
- (b) there is no environmental complaint case related to the Site in the past 3 years.

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

The Site is within an area where no public sewerage connection is available.

### **Landscape**

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

- (a) according to the aerial photo taken in 2018, the surrounding area is comprised of temporary structures, vacant lands, car parks and scattered tree groups. The applied use is considered not incompatible with the existing landscape setting in proximity;
- (b) based on the site photos taken on 17.5.2019, the existing trees located along northern and southern boundary of the Site were in fair conditions. As further significant landscape impact arising from the proposed use is not anticipated, his office has no objection to the application from the landscape planning perspective; and
- (c) in view that the use is not adjoining any prominent public frontage, the landscape condition is not recommended, should the application be approved.

### **Drainage**

#### 9.1.6 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, conditions 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.

### **Building Matters**

#### 9.1.7 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 structure existing at the Site and the BD is not in a position to offer comments on their suitability for the use related to the application; and
- (b) his detailed advisory comments are at **Appendix V**.

### **Nature Conservation**

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

the Site has been occupied by temporary structures and similar uses had been approved by the Board for some years. He has no comment on the application.

### **Fire Safety**

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

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

### **Water Supply**

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

- (a) he has no objection to the application;
- (b) for provision of water supply to the development, the applicants may need to extend their inside services to the nearest suitable Government water mains for connection. The applicants shall resolve any land matter associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards; and
- (c) his detailed comments are at **Appendix V**.

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

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

he has consulted the locals from 7.5.2019 to 21.5.2019. The North District Council (NDC) member of the subject Constituency and the Resident Representative (RR) of Ying Pun support the proposal. The Chairman of Sheung Shui District Rural Committee objects to the proposal as the local track is narrow and local traffic may be affected.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD); and
- (c) Director of Leisure and Cultural Services (DLCS).



## 10. Public Comments

On 30.4.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 21.5.2019, 2 public comments (**Appendices IVa and IVb**) submitted by 2 individuals are received. One indicates no comment on the application and the other objects to the application on grounds that the narrow local track cannot cater the additional traffic and the applied use will adversely affect the villagers nearby.

## 11. Planning Considerations and Assessments

11.1 The application is for temporary warehouse (antique vehicles, food and beverages) with ancillary office for a period of 3 years. The Site falls within an area zoned “REC” on the approved Kwu Tung South OZP No. S/NE-KTS/16 (**Plan A-1**). The applied use is not in line with the planning intention of “REC” zone, which is intended primarily for recreational developments for the use of the general public. However, temporary planning permissions for various open storage/storage/workshop uses have been granted since 2004 and there is no known programme or intention to use the Site for recreation activities. Hence, the approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “REC” zone.

11.2 The applied use is considered not incompatible with the surrounding land uses, which are predominantly warehouses, workshops and open storage yards with some domestic structures in the vicinity (**Plan A-2a**). C for T considers that the application can be tolerated from traffic viewpoint. To address C for T’s concern, an approval condition prohibiting vehicles reversing onto public road is recommended in paragraph 12.2(e) below. Other relevant Government departments consulted including DEP, CE/MN, DSD, D of FS and CTP/UD&L, PlanD have no adverse comment on or no objection to the application. There is no environmental complaint received in the past 3 years. To mitigate any potential environmental impacts, approval conditions restricting the operating hours of the development, restricting the type of vehicles and prohibiting vehicle repair workshop activities on the Site are recommended in paragraphs 12.2(a) to (d). Besides, the applicant will 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.

11.3 The Site is involved in five previously approved applications for similar use of temporary open storage or storage use as stated in paragraph 5. Moreover, there are 8 similar applications within the same “REC” zone (**Plan A-1**) which were approved by the Committee between 2006 and 2018. Approval of the current application is in line with the previous decisions of the Board.

11.4 There is 1 local objection conveyed by DO(N) on possible traffic impact, and 2 public comments, one indicating no comment and one raises concern on adverse traffic impact (as stated in paragraphs 10.1.12 and 11). Relevant

Government departments' comments and planning considerations set out in paragraph 11.2 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 mentioned in paragraphs 9.1.10 and 10, the Planning Department considers that the temporary warehouse (antique vehicles, food and beverages) with ancillary office 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 year until 21.6.2022. The following approval conditions and advisory clauses are also suggested for Members' reference:

### Approval conditions

- (a) no operation between 6:00 p.m. and 8:00 a.m., as proposed by the applicants, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicants, is allowed on the Site during the planning approval period;
- (c) no vehicle repairing and other workshop activities are allowed to be carried out at any time during the planning approval period;
- (d) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) 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 **21.12.2019**;
- (g) in relation to (f) 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 **21.3.2020**;
- (h) 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 **21.12.2019**;
- (i) in relation to (h) above, the implementation of drainage proposal within **9**

months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 21.3.2020;

- (j) if any of the above planning conditions (a), (b), (c), (d) or (e) 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
- (k) if any of the above planning conditions (f), (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.

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 applied use is not in line with the planning intention of the "REC" zone in the Kwu Tung South area which is primarily for recreational developments for the use of the general public and to encourage the development of active and/or passive recreation and tourism/eco-tourism. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

**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. Attachments**

<b>Appendix I</b>	Application Form with attachments received on 23.4.2019
<b>Appendix Ia</b>	FI received on 3.6.2019
<b>Appendix Ib</b>	FI received on 4.6.2019 (2 letters)
<b>Appendix II</b>	Previous Applications

<b>Appendix III</b>	Similar Applications
<b>Appendices IVa and IVb</b>	Public Comments
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Location Plan of vehicular access and loading/unloading area
<b>Plan A-1</b>	Location Plan
<b>Plan A-2a and A-2b</b>	Site Plans
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
JUNE 2019**