

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/KTN/82

<u>Applicant</u>	The Motor Transport Company of Guangdong and Hong Kong Limited represented by Top Bright Consultants Limited
<u>Site</u>	Lots 106 (Part), 108 (Part), 109 (Part), 110 (Part), 112 (Part), 113, 114, 115 (Part), 116 (Part), 117 (Part), 118 (Part), 119 (Part), 120 (Part), 122 (Part), 123 (Part), 165 S.A (Part) in D.D. 95 and Adjoining Government Land, Ho Sheung Heung, Kwu Tung North, Sheung Shui, New Territories
<u>Site Area</u>	10,573 m ² (including about 416 m ² of Government land)
<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>	Area shown as ‘Road’ (about 91.7%) “Residential (Group B)” (“R(B)”) (about 5.1%) “Government, Institution or Community” (“G/IC”) (about 2.5%) “Green Belt” (“GB”) (about 0.7%)
<u>Application</u>	Temporary Medium Goods Vehicle and Container Tractor/Trailer Park for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary medium goods vehicle and container tractor/trailer park at the application site (the Site) for a period of 3 years. The Site falls mainly within an area shown as ‘Road’ with minor portions in areas zoned “R(B)”, “G/IC” and “GB” on the approved Kwu Tung North OZP No. S/KTN/2 (**Plan A-1**). According to the Notes of the OZP, the applied temporary use for a period of 3 years requires permission of the Town Planning Board (the Board), notwithstanding that the use is not provided for in the terms of the OZP. The Site is currently used for the applied use without planning permission.
- 1.2 The Site (in whole or in part) is the subject of 9 previous applications for mainly container trailer/tractor/medium goods vehicle park uses. The last Application No. A/KTN/53 submitted by the same applicant for the same use was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 2.11.2018. All approval conditions had been complied with and the planning permission lapsed

on 7.11.2021.

- 1.3 According to the application, the applied vehicle park comprises a total of 49 parking spaces with 15 for container vehicles, 14 for container trailers, 10 for medium goods vehicles, 5 for container tractors and 5 for private cars for staff/visitors. There are 12 converted container structures and shelters on the Site used for site office, staff rest area, storage, covered car parks, washrooms, guard house, pump room and meter room with the total gross floor area (GFA) of about 1,133m² and building height of 1.22m - 6.8m (1-2 storeys). The Site is accessible via Ho Sheung Heung Road (**Drawing A-1**). The Site and the existing vehicular ingress/egress is hard-paved. Adequate space is provided inside the Site for manoeuvring of vehicle. The Site is fenced off by corrugated metal sheets of approximately 3 m high. Compared with the last approved application No. A/KTN/53, there are minor changes on the building height of some structures from 5m to 6.8m and inclusion of a pump room in site layout plan to reflect the on-site situation.
- 1.4 According to the application, the operating hours is from 8:00 a.m. to 7:00 p.m. from Mondays to Saturdays and no operation on Sundays and public holidays, which are the same as the last approved application. The landscape and tree preservation plan is at **Drawing A-2**.
- 1.5 In support of the application, the applicant has submitted the following documents:

(a) Application form received on 10.12.2021	(Appendix I)
(b) Supplementary planning statement	(Appendix Ia)
(c) Letter of 9.12.2021	(Appendix Ib)
(d) Further Information (FI) dated 11.1.2022 [#]	(Appendix Ic)

[#]*exempted from publication requirement*

2. **Justifications from the Applicant**

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

- (a) The Site is located in close proximity to the Man Kam To and Lok Ma Chau Boundary Crossings. The applied use provides parking spaces for medium goods vehicle and container vehicles to meet the genuine parking demand.
- (b) In view of the temporary nature of the applied use, it would not jeopardize the long term use of the Site and the development of Kwu Tung North New Development Area (KTN NDA).
- (c) As the Board has previously approved 8 applications for similar uses at the Site, the applied use at the Site should be acceptable. All approval conditions of the last application relating to fire service installations (FSI) and drainage facilities, amongst others, have been complied with.
- (d) The applied use is compatible with the surrounding land uses which are mainly open storage and port back-up uses.

- (e) The Site has been hard-paved and fenced to minimize the environmental nuisance to the surrounding areas. As the village settlement of Ho Sheung Heung and Kwu Tung Tsuen are located 400m to the east and 800m to the southwest of the Site, the impact of the applied use on the surrounding areas is considered to be insignificant.
- (f) Most of the vehicles parked at the Site remain stationary and do not go in and out of the Site on a daily basis. The vehicular trip per day is considered acceptable and no traffic complaints were received in the last 10 years. As such, the potential traffic impacts on Ho Sheung Heung Road and Castle Peak Road - Kwu Tung would be minimal.

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.31A) by posting site notice and publishing newspaper notices. Detailed information would be deposited at the meeting for Members’ inspection. For the Government Land (GL), the “owner’s consent/notification” requirements are not applicable.

4. **Background**

The Site is not subject to planning enforcement action.

5. **Town Planning Board Guidelines**

On 27.3.2020, the Board promulgated the revised Town Planning Board Guidelines for Application for Open Storage (OS) and Port back-up Uses (PBU) (TPB PG-No. 13F). The Site falls within KTN NDA which is covered by the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

6. **Previous Applications**

- 6.1 The Site is involved in 9 previous applications (No. A/DPA/NE-KTN/24, A/NE-KTN/64, A/NE-KTN/92, A/NE-KTN/98, A/NE-KTN/118, A/NE-KTN/136 and A/NE-KTN/157, A/KTN/16 and A/KTN/53). Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 Except application no. A/NE-KTN/92 for temporary lorry and container trailer/tractor park, which was rejected by the Committee on 13.9.2002 mainly on the grounds that there was no information in the submission to demonstrate that the proposed development would not generate adverse environmental and traffic impacts to the surroundings, the remaining 8 previous applications were approved by the Committee/the Board from 1994 to 2018.
- 6.3 Except for the last two applications No. A/KTN/16 and A/KTN/53, the sites of all the 6 previously approved application were in “Open Storage” (“OS”) zone when they

were approved. For the last two applications, they covered the same site and fell within the same zoning of the current application. A/KTN/16 for temporary medium goods vehicle and container tractor/trailer park and A/KTN/53 for the renewal of planning approval were approved in 2015 and 2018 respectively. All approval conditions of the last application A/KTN/53 had been complied with. Its planning permission lapsed on 7.11.2021. The current application is submitted by the same applicant of the last 2 applications and the key difference is the increase of building height of some structures, which is about 1.8m higher than the previously approved scheme.

7. Similar Application

There is no similar application for medium goods vehicle and container tractor/trailer park within/partly within the area shown as ‘Road’ or the same “R(B)”, “G/IC” and “GB” zones.

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

8.1 The Site is:

- (a) fenced off and currently used for the applied use without planning permission; and
- (b) accessible from Ho Sheung Heung Road.

8.2 The surrounding areas have the following characteristics:

- (a) to the east of the Site are an open storage yard for recycling of metals; further east across Ho Sheung Heung Road are a mix of open storage yards, car park, warehouses, workshops, garden and domestic structures;
- (b) to its north are some domestic structures, car park, and vacant/unused land;
- (c) to its north-west is an area for burial urns;
- (d) to its west is mainly domestic structures; and
- (e) to its south are a mix of domestic structures, open storage yards, warehouses, and vacant/unused land.

9. Planning Intentions

9.1 Area shown as ‘Road’ is intended for road development.

9.2 The “R(B)” zone is primarily intended for medium-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

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 of Lots No. 106, 108, 109, 110, 112, 113, 114, 115, 116, 117, 118, 119, 120, 122, 123, 165 S.A all 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.
- (b) The applicant should make his/her own arrangement for acquiring access to the Site, and there is no guarantee that any adjoining GL will be allowed for vehicular access to the Site for the proposed use.
- (c) There are unauthorized structures erected on the lots and portions of adjoining GL are occupied without approval from his office. According to the revised layout plan submitted by the applicant, existing built-over area largely tallied with the development parameters of the planning application, except for the structures erected on Lot No. 112 in D.D.95. His office reserves the right to take necessary lease enforcement actions against the structures on private lots and land control actions against the irregularities on GL as appropriate.
- (d) It is noted that one of the proposed structures would be built for toilet use. The applicant should note that any proposed toilet facilities should meet the current health requirements.
- (e) According to records at the Land Registry, warning letters against the unauthorized structures on Lots No. 106, 108, 110, 112, 113, 122 and 123 all in D.D. 95 were issued by his office respectively.
- (f) If the planning application is approved, the owner(s) of the application lots shall apply to his office for a Short Term Waiver ("STW") and Short Term Tenancy ("STT") to cover all the actual occupation area and to regularize the unauthorized structures on site.
- (g) His other advisory comments are in **Appendix V**.

Long Term Development

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

According to the latest implementation programme of the Development of Kwu Tung North New Development Area (KTN NDA) Remaining Phase, it is aimed to commence the construction works for the Remaining Phase in 2024. Therefore, the period of the application should be ended on or before end 2023.

10.1.3 Comments of the Director of Electrical and Mechanical Services (DEMS):

He objects to the application as the location of the Site may affect Phase 2 District Cooling System (DCS) pipe installation for KTN NDA which will be implemented from Q1 2025 to Q4 2031 tentatively.

Environment

10.1.4 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 structures are in the south-east and west of the Site). Environmental nuisance to nearby residents is anticipated.
- (b) There is no environmental complaint case related to the Site for the past 3 years.
- (c) 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.

Landscape Aspect

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

- (a) She has no objection to the application. Based on aerial photo of 2021, the Site is situated in an area of miscellaneous rural fringe landscape character surrounded by temporary structures, open storages, vehicle parks and scattered tree groups. The proposed use is considered not incompatible with its surrounding environment.
- (b) According to the site photos taken in December 2021, the Site is hard paved and in operation. Existing trees of common species and generally in fair condition are located at the periphery of the Site. Based on the landscape and tree preservation plan submitted by the applicant, the temporary structures would not be in conflict with

existing trees. No further adverse landscape impact within the Site arising from the development is anticipated.

- (c) Her other advisory comments are at **Appendix V**.

Drainage

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

- (a) He has no objection to the application from the public drainage viewpoint.
- (b) Should the application be approved, conditions should be included to request the applicant to submit a condition record of the existing drainage facilities on site to his satisfaction within three months from the date of planning approval and to maintain the existing drainage facilities properly and rectify those facilities if they are found inadequate/ ineffective during operation.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to FSI being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSI is anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSI to his department for approval.
- (c) His advisory comments are at **Appendix V**.

District Officer's Comments

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

- (a) He has consulted the locals regarding the application. The Resident Representative (RR) of Kwu Tung (South) and RR of Kwu Tung (North) object to the application mainly on the grounds that the applied use would affect traffic and environment of surrounding area.
- (b) The North District Councilor of the subject Constituency, the Chairman of Sheung Shui District Rural Committee and the Chairman of Fung Shui Area Committee have no comment on the application.

10.2 The following government departments have no adverse comment on/no objection to the application and their advisory comments, if any, are in **Appendix V**:

- (a) Commissioner for Transport (C for T)
- (b) Commissioner of Police
- (c) Chief Highway Engineer/New Territories East, Highways Department
- (d) Chief Estate Surveyor/ New Development Area, LandsD
- (e) Head of Geotechnical Engineering Office, CEDD
- (f) Chief Engineer/Construction, Water Supplies Department
- (g) Chief Building Surveyor/New Territories West, Buildings Department

11. Public Comments Received During Statutory Publication Period

On 17.12.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 7.1.2022, a total of 4 comments (**Appendix IV**) from four individuals were received. Three of them object to the application mainly for the reasons that the applied use will cause adverse impact on traffic, environment and drainage, and cause risk on fire and villagers' safety. The remaining comment concerns extension of the temporary use.

12. Planning Considerations and Assessments

12.1 The application is for temporary medium goods vehicle and container tractor/ trailer park for a period of 3 years. The Site falls mainly within an area shown as 'Road' with minor portion in "R(B)" zone on the approved Kwu Tung North OZP No. S/KTN/2 (**Plan A-1**). The applied use is not in line with the planning intention of the zonings above. According to PM/N, CEDD, the Site falls within the KTN NDA Remaining Phase. Implementation of the KTN NDA First Phase has commenced in 2019, while the construction works for the Remaining Phase is aimed to commence in 2024. DEMS raises objection to the application and advises that the implementation of Phase 2 DCS for the NDA may be affected. Should the application be approved, an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for the implementation of government project is recommended.

12.2 The applied use is considered not incompatible with the surrounding land uses which comprise mainly open storage yards, workshops, warehouses and container vehicle parks and some domestic structures (**Plan A-2**).

12.3 The Site falls within the KTN NDA. For application in NDAs, the following considerations under the TPB PG-No. 13F are relevant:

For existing open storage and port back-up uses with previous planning approval(s) and/or permitted under the previous OZPs, sympathetic consideration may be given to the application until the concerned site is required for implementation of NDA development, provided that the relevant approval conditions, if any, have been complied with. Technical assessments, where appropriate, should be submitted to demonstrate that the continued operation of the current uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas and the concerns of the departments and local residents, if any, can be addressed

through the implementation of the approval conditions.

In view of the impending implementation of NDAs, new open storage and port backup uses are generally not encouraged to infiltrate into the NDAs. There is a general presumption against such uses at greenfield areas and/or at sites with land use compatibility issue, e.g. in close proximity to existing residential dwellings which may be subject to environmental nuisances caused by the open storage and port backup uses. Applications will normally be rejected unless under exceptional circumstances.

- 12.4 The Site has been used for similar use over a decade. The current application is the same as the previously approved application in terms of site area, site boundary and proposed use with similar layout. Only building height and GFA are slightly increased. There has been no major change in the planning circumstance since the last approval. Hence, it is considered that sympathetic consideration could be given to the current application.
- 12.5 DEP does not support the application as there are sensitive uses in the vicinity of the Site and the applied use involves the use of heavy vehicles, and environmental nuisance is expected. However, DEP has not received any complaints involving the Site in the past 3 years. To mitigate any potential environmental impacts, approval conditions restricting operation hours and requiring maintenance of boundary fencing are recommended in paragraph 13.2. Any non-compliance with these approval conditions would result in revocation of the planning permission. The applicant will also be advised to follow the 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' to minimize environmental impacts on the adjacent areas.
- 12.6 The approval of planning application will unlikely has significant adverse traffic, drainage and landscape impact on the surrounding areas. C for T, CE/MN, DSD, D of FS and CTP/UD&L, PlanD have no adverse comment on the application. Approval conditions suggested by CE/MN, DSD and D of FS are recommended in paragraph 13.2 below.
- 12.7 The Committee has approved 8 previous applications for similar uses at the Site. The last Application No. A/KTN/53 submitted by the same applicant for the same use was approved on 2.11.2018. The applicant has complied with all approval conditions of last planning permission. Approval of the current application is in line with the previous decision of the Committee.
- 12.8 2 local views conveyed by DO(N) and 3 public comments object to the application as stated in paragraphs 10.1.8 and 11 respectively. In this regard, the departmental comments, as well as planning considerations and assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments in paragraphs 11, the Planning Department considers that the temporary medium goods vehicle and container tractor/trailer park 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 until 28.1.2025. The following conditions of approval and advisory clauses are also suggested for Member's reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the application site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the application site during the planning approval period;
- (c) the existing peripheral fencing on the application site should be maintained at all times during the planning approval period;
- (d) the existing drainage facilities on the application site should be properly maintained and rectified if they are found inadequate/ineffective at all times during the planning approval period;
- (e) the submission of a condition record of the existing drainage facilities 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 28.4.2022;
- (f) the submission of fire service installations proposal 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 28.7.2022;
- (g) in relation to (h) above, the provision of 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 28.10.2022;
- (h) if any of the above planning conditions (a), (b), (c) or (d) 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
- (i) if any of the above planning conditions (e), (f) or (g) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

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

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

The applicant fails to demonstrate that the applied use would not cause adverse environmental impact on its surrounding areas.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the 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 10.12.2021
Appendix Ia	Supplementary planning statement
Appendix Ib	Letter of 9.12.2021
Appendix Ic	FI dated 11.1.2022
Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Previous Applications
Appendix IV	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Site Plan
Drawing A-2	Landscape and Tree Preservation Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos