

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/KTN/86

<u>Applicant</u>	Best Creation Development Limited represented by Chun Lik Engineering (HK) Limited
<u>Site</u>	Lots 736 RP, 738 RP (Part) and 739 RP in D.D. 95 and Adjoining Government Land, Kwu Tung North, New Territories
<u>Site Area</u>	2,238 m ² (including 797.9 m ² of Government land)
<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>	“Open Space” (“O”) (about 58%); “Other Specified Uses” annotated “Business and Technology Park” (“OU(BTP)”) (about 34%); and an area shown as ‘Road’ (about 8%)
<u>Application</u>	Temporary Warehouse and Vehicle Repair Workshop with Ancillary Office and Staff Rest Room for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse and vehicle repair workshop with ancillary office and staff rest room 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 “O”, “OU(BTP)” and an area shown as ‘Road’ on the approved Kwu Tung North OZP No. S/KTN/2 (**Plan A-1**). According to the Notes of the OZP, temporary use not exceeding a period of 3 years in area zoned “O”, “OU(BTP)” or area shown as ‘Road’ 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 used for the applied uses without valid planning permission (**Plan A-2**).
- 1.2 A previous application (No. A/KTN/51) (**Plan A-1**) for the same use on mostly the same site as the current application was approved by the Committee on 8.3.2019. However, the planning approval was revoked on 8.6.2021 due to non-compliance with approval conditions on submission and implementation of fire service installation and water supplies for fire-fighting, and the implementation of drainage proposal within the specified deadline. The layout

and uses under application No. A/KTN/51 was mainly the same as in the current application except that there are 3 ingress/egress points in the current application whilst there was only 1 in A/KTN/51.

- 1.3 According to the submission, the development comprises four structures of 1-2 storeys with a total gross floor area (GFA) of 1,550 m². Structure 1 is 2 storeys for warehouse on G/F (about 927 m²) and ancillary office on 1/F (about 325 m²) with a height of 11.34m; Structure 2 is 2 storeys for vehicle repair workshop on G/F (about 195 m²) and ancillary staff rest room on 1/F (about 75 m²) with a height of 6.9m; Structure 3 is a 1 storey toilet with about 12m² with a height of 3m; Structure 4 is a 1 storey fire service pump room and switch room of about 16m² with a height of 3.2m (**Drawing A-1**).
- 1.4 The Site is accessible from Castle Peak Road – Kwu Tung via a local road. There are 2 light goods vehicle loading/unloading spaces in the Site. Among the 3 ingress/egress, the south ingress/egress is for the warehouse, the west ingress/egress is only used for maintenance, and the east ingress/egress is used by the vehicular repair workshop. The government land next to the south ingress/egress within the Site is for vehicle manoeuvring. The operation hours are from 9 a.m. to 6 p.m. from Mondays to Fridays and 9 a.m. to 1 p.m. on Saturdays and no operation on Sundays and public holidays.
- 1.5 To demonstrate technical feasibility of the development, the applicant has submitted traffic volume report, fire service installation proposal, as well as a drainage impact assessment and proposal. (**Appendix I**)
- 1.6 In support of the application, the applicant has submitted the following documents:

Application Form with attachments received on 20.4.2022 (**Appendix I**)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I** as summarized below:

- (a) The current application is the same as the previous application (A/KTN/51) at this Site which was approved on 8.3.2019. The applicant has endeavoured to comply with the fire safety, drainage and landscape conditions, and had complied conditions for submission and implementation of landscape proposal, and the submission of drainage proposal. It was the applicant's first application and due to limited knowledge and the society's circumstances, he could not complete necessary works to discharge all conditions. The applicant is committed to comply with conditions in current application.
- (b) Vehicle manoeuvring take place within the Site so that the vehicles would not block the main road. The applicant owns and control the vehicles to be used for transport. The hours of operations will not bring adverse traffic impact to Kwu Tung. The applicant also undertakes to repair and maintain the local road along the east of Site which is not maintained by Transport Department.

- (c) The applicant has attached the drainage impact assessment and proposal from his previous application in support of the current application. The applicant has implemented the drainage proposal and undertake the maintenance of drainage facilities. No adverse drainage impact is anticipated.
- (d) The applied uses and structures are simple and can simply reinstated. There is no other uses except those under application. There will be no spraying work or polluting works to be conducted at the Site. No toxic waste, pollutant or flammable goods will be stored at the Site. There is no impact to ecology or environment.

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

The applicant is the sole “current land owner” of the private land within the Site. For the portion of government land, the “Owner’s Consent/Notification” requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No.31A) is not applicable to the application. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any active enforcement action.

5. Previous Applications

- 5.1 The Site involves 2 previous applications No. A/DPA/NE-KTN/37 and No. A/KTN/51. Application Details are summarized at **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 The first application No. A/DPA/NE-KTN/37 covered a larger area and for low density residential development, mainly on an area zoned “Industrial (Group D)” (“I(D)”) at that time, was rejected by the Rural and New Town Planning Committee (the Committee) on 15.7.1994 which is not relevant to the current application.
- 5.3 The last application No. A/KTN/51 for the same use on mostly the same site as in the current application by the same applicant. It was approved (with conditions) by the Committee on 8.3.2019 for a period of 3 years. The applicant has complied with the conditions for provision of vehicular ingress/egress point, the submission of drainage proposal, the submission and implementation of landscape proposal. However, the planning permission was revoked on 8.6.2021 due to non-compliance of approval conditions relating to submission and implementation of fire service installation, and implementation of drainage proposal.
- 5.4 Compared with the previous approved application (A/KTN/51), the current application has 3 ingress/egress whilst there was only 1 in A/KTN/51. The

number of parking provision had reduced from 2 heavy goods vehicle and 1 private car parking space as in the previous application, to 2 light goods vehicle loading/unloading spaces in the current application. The current application has also included 2 1-storey structures for toilet and fire service pump room and switch room with a small change in the site boundary.

6. Similar Application

There is no similar application within the same “O” and “OU(BTP)” zones and ‘Road’ area.

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

7.1 The Site is:

- (a) hard paved, fenced off and currently occupied by four structures for the applied warehouse and vehicle repair workshop uses without valid planning permission; and
- (b) accessible from Castle Peak Road – Kwu Tung via a local road.

7.2 The surrounding areas are rural in character and intermixed with domestic structures, workshops and open storage yards:

- (a) to the east and north-east are some domestic structures, vehicle repair workshops and storage/open storage;
- (b) to the south are restaurant, real estate agency and car park;
- (c) to the west are some domestic structures, shops and open storage; and
- (d) to the north and north-west are some domestic structures, open storage yards of construction materials and machinery and warehouses.

8. Planning Intentions

8.1 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.

8.2 The planning intention of the “OU(BTP)” zone is primarily for medium-density development to provide a mix of commercial, office, design, research and development uses for promoting high technology business development.

8.3 The area shown as ‘Road’ is intended for road development.

9. Comments from Relevant Government Departments

- 9.1 Apart from the government department as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.
- 9.2 The Director of Environmental Protection (DEP) does not support the application:
- There are sensitive uses in the vicinity of the Site (the nearest domestic structures are to the immediate west of the Site). Environmental nuisance to nearby residents is anticipated.
 - 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.
 - There is no environmental complaint case related to the Site in the past 3 years.

10. Public Comments Received During Statutory Publication Period

The application was published for public inspection. During the statutory public inspection period, a total of 3 public comments (**Appendix V**) from individuals were received. 2 comments object to the application and 1 indicates no comment. The main reasons of objection are that the increase in vehicular traffic will cause congestion, and bring pollution and increase fire risk, therefore affecting the safety of villager and quality of life; the brownfield operation will delay the implementation of the Northern Metropolis; and the applied use is incompatible with both planned open space and business park uses.

11. Planning Considerations and Assessments

- 11.1 The application seeks planning permission for temporary warehouse and vehicle repair workshop with ancillary office and staff rest room for a period of 3 years. The Site falls within an area zoned “O” and “OU(BTP)” and area shown as ‘Road’ on the approved Kwu Tung North OZP No. S/KTN/2 (**Plan A-1**). The planning intention of the “O” and “OU(BTP)” 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, and for medium-density development to provide a mix of commercial, office, design, research and development uses for promoting high technology business development respectively, whilst area shown as ‘Road’ is intended for road development. The applied use is not in line with the planning intention of the above zonings. The Site falls within the area of Remaining Phase of the KTN NDA Project, and the construction works for which is tentatively scheduled for commencement in 2024.

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.

- 11.2 The applied use is not incompatible with the existing surrounding land uses mixed with domestic structures, vehicle repair workshops, warehouses, open storage yards and vehicle parks. Some of such workshops, warehouses and open storages were in existence under the previous zoning of “I(D)” where such uses were always permitted. The relevant government departments have no adverse comment on the application from traffic, drainage, landscape and fire safety points of view. Although DEP does not support the application due to concern on possible environmental nuisance to the sensitive uses near the Site, there is no environmental complaint received in the past 3 years. The current application is mainly the same as the previous application except a change in the number of ingress/egress and structures. The concern of DEP could be addressed through the incorporation of approval conditions restricting the operating hours and days as proposed in paragraph 12.2, and the applicant would be advised to follow “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”.
- 11.3 The previous planning permission was revoked due to non-compliance with approval conditions as stated in paragraph 5 above. In the current application, the applicant has implemented the drainage proposal submitted and has submitted fire services installation proposal. Director of Drainage Services and Director of Fire Services have no objection in principle to the application. There has been no material change in the planning circumstances in the Site and its surrounding areas since last approval given in 2019. Approval for the current application is in line with the previous decision of the Committee.
- 11.4 In light of the previous revocation, the applicant would be advised that should the applicant fail to comply with the approval condition(s) again resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 11.5 3 public comments (as stated in paragraphs 10), of which 2 object to the application. Relevant government departments’ comments and planning considerations set out above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers that the temporary warehouse and vehicle repair workshop with ancillary office and staff rest room 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 three years until 10.6.2025. 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 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation between 1:00 p.m. and 6:00 p.m. on Saturdays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (d) 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 **10.12.2022**;
- (e) in relation to (d) 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 **10.3.2023**;
- (f) implementation of the agreed 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 **10.3.2023**;
- (g) if any of the above planning conditions (a), (b) or (c) 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
- (h) if any of the above planning conditions (d), (e) or (f) 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 IV**.

- 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 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 reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form with attachments received on 20.4.2022
Appendix II	Previous applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public Comments
Drawing A-1	Layout plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a to A-4c	Site photos

**PLANNING DEPARTMENT
JUNE 2022**