

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/KTN/89

<u>Applicant</u>	TAI Chi Sing
<u>Site</u>	Lots 664 RP (Part), 665 RP (Part), 667 (Part) and 668 (Part) in D.D. 96 and adjoining Government Land, Kwu Tung North, New Territories
<u>Site Area</u>	1,786 m ² (including 500 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>	“Other Specified Uses” annotated “Amenity Area” (“OU(A)”) (about 60%); and an area shown as ‘Road’ (about 40%)
<u>Application</u>	Temporary Public Vehicle Park for Private Cars and Light Goods Vehicles with Ancillary Resting Room and Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary public vehicle park for private cars and light goods vehicles with ancillary resting room and office 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 within “OU(A)” zone and 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 “OU(A)” zone 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 The Site is the subject of 3 previous applications No. A/KTN/14, 24 and 36. The last application No. A/KTN/36 submitted by a different applicant for the same use was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 15.6.2018 for a period of 1 year. However, the planning permission was revoked on 15.3.2019 due to non-compliance with approval conditions relating to landscape, fire services installation (FSI) and drainage proposal. The current application is largely the same as the previous application

with a reduced site area (**Plan A-1**) and number of parking spaces but a longer application period for 3 years.

- 1.3 According to the submission, the development comprises two structures of 1 storey (not more than 3.8m) with a total gross floor area (GFA) of 164.9m² for ancillary resting room (about 143m²) and for office use (about 21.9m²) (**Drawing A-1**).
- 1.4 The Site is accessible at the southwest via a local track connecting Castle Peak Road – Chau Tau. There are 9 private car parking spaces and 3 light goods vehicle parking spaces in the Site. The operation hours are from 8 a.m. to 8 p.m. daily. The applicant has submitted swept path analyses, FSI plans, drainage proposal as well as landscaping proposal (**Appendix I**).
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with attachments received on 19.5.2022 (**Appendix I**)
 - (b) Replacement pages of the application form received on 24.5.2022 and 25.5.2022 (**Appendix Ia**)

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 previous application No. A/KTN/36 for a period of 1 year at this Site was approved with conditions on 15.6.2019. There was not sufficient time for the applicant to complete necessary works to discharge all conditions.
- (b) The fire service installation has been completed.

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 notice at the Site and sent notice to relevant rural committee. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land, the “Owner’s Consent/Notification” Requirements as set out in TPB PG-No.31A are not applicable.

4. Background

The Site is subject to an active planning enforcement action (No. E/NE-KTN/192) (**Plan A-2**) against unauthorized development (“UD”) for place for parking of vehicles, use for fuel filling station and storage use (including deposit of containers). Enforcement Notice was issued to the manager of the land owner on 30.8.2021 requiring discontinuation of the

UD by 30.10.2021. As revealed from recent site inspection, the UD has not been discontinued upon expiry of the notice. The concerned notice recipients may be subject to prosecution action.

5. Previous Applications

- 5.1 The Site involves three previous applications No. A/KTN/14, 24 and 36 for temporary public vehicle park (including private cars, light goods vehicles and/or medium goods vehicles) with ancillary resting room, office, and/or storage containers. Application details are summarized at **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 Applications No. A/KTN/14 and A/KTN/24 both for temporary public vehicle park (including private cars, light good vehicles and medium goods vehicles) with ancillary resting room, storage containers and office for a period of 3 years and 2 years were approved with conditions by the Committee on 8.5.2015 for 2 years and on 22.4.2016 for 1 year respectively. Shorter approval periods were granted in order not to frustrate the implementation of the KTN NDA¹. The applications were approved mainly on grounds that the proposed development was not incompatible with the surrounding land uses and would unlikely have significant adverse impact on the surrounding areas. However, the planning permissions were revoked on 8.2.2016 and 22.1.2017 due to non-compliance with approval conditions relating to drainage, FSI and landscape.
- 5.3 The last approved application No. A/KTN/36 for the same use as in the current application was approved with conditions by the Committee on 15.6.2018 for a period of 1 year on similar grounds as previous applications. The applicant has complied with the conditions for the submission of FSI and landscape proposals. However, the planning permission was revoked on 15.3.2019 due to non-compliance with approval conditions relating to submission and implementation of drainage proposal, and implementation of the FSI and landscape proposals. Compared with the last approved application, the total number of parking provision is reduced from 25 to 12 in the current application, and the site area is slightly reduced. The current application is submitted by a different applicant.

6. Similar Application

There is no similar application within the same “OU(A)” zone and area shown as ‘Road’ in the past five years.

¹ Noting that land in NDA project will be resumed no matter with planning permission or not, in recent years, in approving an application, instead of granting shorter approval period, the Committee would advise the applicant that the site may be resumed by the Government at any time during the planning approval period for the implementation of government project.

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

7.1 The Site is:

- (a) hard paved, fenced off and currently used for the applied use without valid planning permission; and
- (b) accessible from Castle Peak Road – Chau Tau via a local track.

7.2 The surrounding areas are rural in character and intermixed with vehicular parks, workshops, storages and domestic structures:

- (a) to the immediate north-east is a lorry park;
- (b) to the north and west are some workshops, storages, a plant nursery, an open-air car park and domestic structures;
- (c) to the south is the Castle Peak Road – Chau Tau; and
- (d) to the east are some domestic structures.

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

9. **Comments from Relevant Government Departments**

9.1 Apart from the government department as sets out in paragraph 8.2 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 following government department has reservation on the application.

Future Development

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

- (a) The Site partially falls within the KTN NDA Remaining Phase.
- (b) The construction works for the Remaining Phase of KTN NDA is aimed to commence in 2024. Thus, the approval period of application should be ended on or before end 2023.

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 traffic congestion, and bring about pollution and increase fire risk, therefore affecting the safety of villagers and quality of life; and continuation of brownfield operation despite revocation of previous permissions.

11. Planning Considerations and Assessments

- 11.1 The application seeks planning permission for temporary public vehicle park for private cars and light goods vehicles with ancillary resting room and office for a period of 3 years. The Site falls within an area zoned “OU(A)” and area shown as ‘Road’ on the approved Kwu Tung North OZP No. S/KTN/2 (**Plan A-1**). The planning intention of the “OU(A)” zone is primarily for the provision of landscaping and planting to enhance the environment, 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 the 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 workshops, storages, vehicle parks and domestic structures. The relevant government departments have no adverse comment on the application from traffic, drainage, landscape and fire safety points of view. There is no environmental complaint received in the past 3 years. The current application is mainly the same as the previous application with a reduced site area and number of parking spaces but a longer application period for 3 years.
- 11.3 The Site is the subject of 3 previous approved applications (No. A/KTN/14, 24 and 36) for public vehicle park uses as stated in paragraph 5 above, and all were revoked due to non-compliance with approval conditions. The current application is submitted by a different applicant, and has submitted relevant proposals on FSI, drainage and landscape. Director of Drainage Services, Director of Fire Services and Chief Town Planner/Urban Design and Landscape, Planning Department have no objection in principle to the application. There has been no major change in the planning circumstances in the Site and its surrounding areas since last approval given in 2018. Approval for the current application is in line with the previous decision of the Committee.
- 11.4 There are 3 public comments as stated in paragraph 9, of which 2 object to the application. Relevant government departments’ comments and planning considerations in the above paragraphs are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 10 and having taken into account the public comments mentioned in paragraph 9, the Planning Department considers that the temporary public vehicle park for private cars and light goods vehicles with ancillary resting room and 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 three years until 15.7.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 8:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) 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 **15.1.2023**;
- (c) in relation to (b) 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 **15.4.2023**;
- (d) 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 **15.1.2023**;
- (e) in relation to (d) 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 **15.4.2023**;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) implementation of the agreed landscape proposal within **9** months from the date of planning approval to the satisfaction of Director of Planning or of the Town Planning Board by **15.4.2023**;
- (h) if any of the above planning conditions (a) and (f) are 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
- (i) if any of the above planning conditions (b), (c), (d), (e) 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 IV**.

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

the proposed development is not in line with the planning intention of the "OU(Amenity Area)" zone and area shown as 'Road' which is primarily for the provision of landscaping and planting to enhance the environment and for road development respectively.

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

Appendix I	Application form with attachments received on 19.5.2022
Appendix Ia	Replacement pages received on 24.5.2022 and 25.5.2022
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-4b	Site photos