

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/KTN/90

<u>Applicant</u>	:	Mr. TAI Chi Sing
<u>Site</u>	:	Lots 90 (Part), 91 (Part) and 94 S.A RP (Part) in D.D. 95 and adjoining Government Land, Kwu Tung North, New Territories
<u>Site Area</u>	:	3,170 m ² (including about 40 m ² of Government land)
<u>Land Status</u>	:	Old Schedule Agricultural Lot held under the Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Kwu Tung North Outline Zoning Plan No. S/KTN/2
<u>Zonings</u>	:	“Residential (Group B)” (“R(B)”) (about 78%); and an area shown as ‘Road’ (about 22%)
<u>Application</u>	:	Temporary Container Vehicle Park (including light and heavy goods vehicles) 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 container vehicle park (including light and heavy goods vehicles) for a period of 3 years. The Site falls mainly within an area zoned “R(B)” and partly within an area shown as ‘Road’ on the approved Kwu Tung North Outline Zoning Plan (OZP) No. S/KTN/2. According to the Notes of the OZP, temporary use not exceeding a period of 3 years in “R(B)” 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 use without valid planning permission (**Plan A-2**).
- 1.2 The Site is the subject of 4 previous applications No. A/DPA/NE-KTN/34, and A/NE-KTN/146 and 168 and A/KTN/60. The last application A/KTN/60 submitted by the current applicant for the same use was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 17.5.2019 and lapsed on 18.5.2022. All the planning conditions have been complied with. The current application is largely the same as the previous application. (**Plan A-1**).

1.3 According to the applicant's submission, the applied development comprises 23 parking spaces, including 9 for container vehicles, 11 for heavy goods vehicles and 3 for light goods vehicles. There are 7 structures of one to two-storey high with a total floor area of 575m² for office, meter room, storage, and toilet uses. The Site is accessible from Ho Sheung Heung Road. The operation hours are from 8:00 a.m. to 8:00 p.m. daily. The layout plan submitted by the applicant is at **Drawings A-1 and A-2**.

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

Application Form with attachments received on 10.6.2022 **(Appendix I)**

Further Information (FI) dated 5.7.2022 **(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) Town Planning Board has approved planning application for temporary private container vehicle park (including light and heavy goods vehicles) for a period of 3 years until 17.5.2022. The renewal application was submitted under A/KTN/60 on 10.2.2022. However, due to COVID-19, the application was lapsed and a new application is submitted for approval.
- (b) All previous approval conditions were done to the satisfaction of relevant government departments. There is no change to those facilities which are maintained in very good conditions. It is proposed that no approval conditions shall be imposed on this new application.

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.31) by posting notice at the Site and sending notice to Sheung Shui District Rural Committee. 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. Town Planning Board Guidelines

The Town Planning Board Guidelines for 'Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance' (TPB PG-No. 13F) is relevant to the application. Relevant extracts of the Guidelines are at **Appendix II**.

5. **Background**

The Site is currently not a subject of any active enforcement case.

6. **Previous Applications**

- 6.1 The Site involves 4 previous applications No. A/DPA/NE-KTN/34, 146, 168, and A/KTN/ 60. Application details are summarized at **Appendix III** and their locations are shown on **Plan A1**.
- 6.2 Application No. A/DPA/NE-KTN/34 for warehouse for storage of marble and laminated timber was approved with conditions by the Committee on 20.5.1994.
- 6.3 Applications No. A/NE-KTN/146 and 168 for the same use as the applied use both for a period of 5 years were approved with conditions on 24.2.2012 and 16.8.2013 respectively when the Site were zoned “Open Storage” (“OS”) on the previous OZPs, mainly on grounds of generally in line with the planning intension of the then “OS” zone, not incompatible with the surrounding land uses and significant adverse traffic, environmental, drainage and landscape impacts on the surrounding area not anticipated.
- 6.4 The last application No. A/KTN/60 for the same use as in the current application submitted by the same applicant was approved on 17.5.2019 for a period of 3 years mainly on similar grounds of the previous approvals, and that approval of the application on a temporary basis would not jeopardize the long-term development of the “R(B)” zone, and the application generally complied with the Town Planning Board Guidelines No. 13E. All the approval conditions have been complied with and the planning permission lapsed on 18.5.2022.
- 6.5 Compared with the last approved application, the floor area and number of parking spaces are reduced from 590m² to 575m² and from 24 to 23 respectively.

7. **Similar Applications**

- 7.1 There are 6 similar applications (No. A/KTN/16, 27, 53, 62, 82 and 87) mainly for proposed temporary medium goods vehicle and/or container tractor/trailer park partly within the same ‘Road’ area and other “R(B)” sites on the same OZP. They were approved by the Committee mainly from 2015 to 2022 mainly on the grounds that the applications generally complied with the TPB PG-No.13E or No. 13F in that there were no major adverse departmental comments, and environmental concerns could be addressed by imposing relevant approval conditions.
- 7.2 Details of these similar applications are summarized at **Appendix IV**. The locations of these application sites are shown on **Plan A-1**.

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) formed, fenced and accessible via Ho Sheung Heung Road; and
- (b) currently occupied by a container vehicle park with a few temporary structures (i.e. the applied use) without valid planning permission.

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

- (a) to the north are a lorry park, workshops, warehouses and recycling of metals;
- (b) to the west are open storage yards, domestic structures, warehouses and vehicle parking, including trailers, lorries and cars;
- (c) to the south are fallow agricultural land and domestic structures; and
- (d) to its east are mainly workshops, car park, warehouses, open storage yards with scattered domestic structures.

9. Planning Intentions

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

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

10. Comments from Relevant Government Departments

10.1 Apart from the government departments as sets out in paragraph 10.2 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 V and VI** respectively.

10.2 The following government departments do not support/ have concern on the application.

Environment

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

- (a) She does not support the application as there are sensitive uses in the vicinity of the Site (the nearest domestic structures are in the

southwest of the Site). Environmental nuisance to nearby residents is anticipated.

- (b) Should the application be approved, 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.
- (c) There is no environmental complaint case related to the Site for the past 3 years.

Future Development

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

- (a) The Site falls within the area of the Kwu Tung North New Development Area (KTN NDA) Remaining Phase.
- (b) The construction works for the remaining phase of KTN NDA is aimed to commence in 2024 and the period of application should be ended on or before end 2023.

11. Public Comments Received During Statutory Publication Period

The application was published for public inspection. During the statutory public inspection period, a total of 2 public comments (**Appendix VII**) from individuals were received. 1 comment objects 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.

12. Planning Considerations and Assessments

- 12.1 The application seeks planning permission for temporary container vehicle park (including light and heavy goods vehicle) for a period of 3 years. The Site mainly falls within an area zoned "R(B)" with a portion in an area shown as 'Road' on the approved Kwu Tung North OZP No. S/KTN/2 (**Plan A-1**). The planning intention of the "R(B)" zone is primarily for medium-density residential developments, 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.

12.2 The applied use is not incompatible with the surrounding land uses which comprise mainly vehicle parks, warehouses, open storage yards and workshops with some scattered domestic structures (**Plan A-2**). Some of such warehouses and open storages were in existence under the previous zoning of “OS” where such uses were always permitted.

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.

12.4 Although DEP does not support the application as there are residential dwellings in the vicinity of 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 operation hours is recommended in paragraph 13.2 below. Should the application be approved, the applicant will be 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. Other concerned departments, including Commissioner for Transport, Director of Drainage Services, Director of Fire Services and Chief Town Planner/Urban Design and Landscape, Planning Department have no adverse comments on the application. Suggested approval conditions by concerned departments are recommended in paragraphs 13.2 below.

12.5 The Site is the subject of 4 previous approved applications (No. A/DPA/NE-KTN/34, 146, 168, and A/KTN/ 60) as stated in paragraph 6. The last application No. A/KTN/60 for the same use was approved with conditions by the Committee on 17.5.2019 for a period of 3 years. All approval conditions have been complied with. The permission lapsed on 18.5.2022. There has been no material change in the planning circumstances in the Site and its surrounding areas since last approval given in 2019. Approval of the current application is in line with the previous decisions of the Committee.

12.6 There are 2 public comments (as stated in paragraphs 11), of which 1 objects to the application. Relevant government departments’ comments and planning considerations 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 mentioned in paragraph 11, the Planning Department considers that the temporary container vehicle park (including light and heavy goods vehicle) 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 three years until 29.7.2025. 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 existing drainage facilities on the Site should be properly maintained and rectified if they are found inadequate/ineffective at all times during the planning approval period;
- (c) 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 **29.10.2022**;
- (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 **29.1.2023**;
- (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 **29.4.2023**;
- (f) if any of the above planning conditions (a) or (b) 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
- (g) if any of the above planning conditions (c), (d) or (e) 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 VI**.

- 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 development would not generate adverse environmental impact on the surrounding areas.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant 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.

14. Attachments

Appendix I	Application form with attachments received on 10.6.2022
Appendix Ia	FI dated 5.7.2022
Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Previous applications
Appendix IV	Similar applications
Appendix V	Government departments' general comments
Appendix VI	Recommended advisory clauses
Appendix VII	Public Comments
Drawing A-1	Layout plan
Drawing A-2	Swept path analysis
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
JULY 2022**