

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

**APPLICATION NO. A/KTN/91**

<b><u>Applicant</u></b>	:	Sun Kong Motoring Service Limited represented by Metro Planning and Development Company Limited
<b><u>Site</u></b>	:	Lots 879 S.A RP, 879 S.B RP (Part) and 880 S.C RP in D.D. 92 and Adjoining Government Land, Kwu Tung North
<b><u>Site Area</u></b>	:	About 2,900 m <sup>2</sup> (including about 310 m <sup>2</sup> of Government land)
<b><u>Land Status</u></b>	:	Old Schedule Agricultural Lot held under the Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Kwu Tung North Outline Zoning Plan No. S/KTN/2
<b><u>Zonings</u></b>	:	Area shown as ‘Road’ (about 68%), “Other Specified Uses” annotated “Amenity Area” (“OU(A)”) (about 29%), and “Other Specified Uses” annotated “Business and Technology Park” (“OU(BTP)”) (about 3%)
<b><u>Application</u></b>	:	Temporary Coach and Container Trailer Parking with Ancillary Vehicle Repair Workshop 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 coach and container trailer parking with ancillary vehicle repair workshop for a period of 3 years. The Site falls mainly within an area shown as ‘Road’ and partly within “OU(A)” and “OU(BTP)” zones 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 “OU(A)”, “OU(BTP)” zones 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 12 previous applications which were all approved by the Rural and New Town Planning Committee (the Committee). The last application A/KTN/67 submitted by the current applicant for the same use was approved with conditions by the Committee on 6.3.2020 and was revoked on 6.8.2022 due to non-compliance with approval conditions relating to fire service installations

(FSI) and drainage facilities. The current application is largely the same as the previous application with a slightly larger site area (**Plan A-1**).

1.3 According to the applicant's submission, the applied development comprises 8 parking spaces for coach and container trailers. There are 3 structures of one to two-storey high with a total floor area of 1,376m<sup>2</sup> for ancillary vehicle repair workshop, site office and toilet (**Drawing A-1**). The Site is accessible from Castle Peak Road – Kwu Tung. The operation hour of the development is from 9:00 a.m. to 6:00 p.m., from Mondays to Saturdays, with no operation on Sundays and public holidays. The applicant submitted a drainage proposal and a FSI proposal.

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

Application Form with attachments received on 7.7.2022 (Appendix I)

Further Information (FI) dated 29.7.2022<sup>#</sup> (Appendix Ia)

Further Information (FI) dated 22.8.2022<sup>#</sup> (Appendix Ib)

*<sup>#</sup>accepted and exempted from publication*

## 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 proposed development is a temporary use which would not jeopardize the planning intention of "OU", "OU(A)" and 'Road' zones.
- (b) The proposed development is compatible with the surrounding environment.
- (c) The Site is in close proximity to the border and aim at repairing the cross-border coaches and container trailers.
- (d) The Site is the subject to a number of previously approved applications for the applied use since 1997.
- (e) Insignificant drainage impact.
- (f) Insignificant environment impact as the applied use has existed at the Site since 1997.
- (g) Due to COVID-19, the owner could not return from China to Hong Kong to comply with the planning conditions of the previous application A/KTN/67. With the reduced day of quarantine, the owner is confident that he can cross the border shortly to implement the drainage and fire service installations proposals.

### 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 12 previous applications mainly for temporary uses and all were approved by the Committee. Application details are summarized at **Appendix III** and their locations are shown on **Plan A-2b**.
- 6.2 The first 9 previous applications (No. A/DPA/NE-KTN/18, No. A/NE-KTN/47, 56, 67, 82, 91, 111, 133 and 149) were approved with conditions by the Committee between 1993 and 2011 before the current zonings.
- 6.3 The remaining 3 previous applications (No. A/KTN/18, 45 and 67) fell within the current “OU(A)” and “OU(BTP)” zones and ‘Road’ area. Application No. A/KTN/18 for the same temporary use as the applied use was approved on 18.9.2015 mainly on grounds that the temporary use would not frustrate the long-term planning intention, was not incompatible with the existing surrounding land uses and would unlikely have significant adverse impacts on the surrounding area, and application generally complied with the then TPB PG-No. 13E. All approval conditions were complied with. Application No. A/KTN/45 for temporary warehouse for storage of electronic goods was submitted by a different applicant with the current application. It was approved on 6.7.2018 mainly on similar grounds. However, the planning permission was revoked on 6.1.2020 due to non-compliance of approval conditions.
- 6.4 The last application No. A/KTN/67 for the same use as in the current application submitted by the same applicant was approved on 6.3.2020 for a period of 3 years mainly on similar grounds as A/KTN/18. However, the planning permission was revoked on 6.8.2022 due to non-compliance of approval conditions related to implementation of drainage and FSI proposals.

- 6.5 Compared with the last approved application, the site area increased from about 2,674 m<sup>2</sup> to 2,900 m<sup>2</sup> (+8.5%) with a similar site layout.

## 7. **Similar Applications**

- 7.1 There are two similar applications. No. A/KTN/44 within the same “OU(A)” and OU(BTP)” zones and area shown as ‘Road’, which is next to the Site, for temporary coach, container tractor and trailer park. It was approved by the Committee on 15.6.2018 mainly on similar grounds of the previous applications on the Site. Application No. A/KTN/52 for temporary vehicle repair workshop was approved on 18.1.2019. However, both planning permissions were revoked in 2018 and 2021 respectively due to non-compliance with 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, A-2a and A-2b, aerial photo on Plan A-3, and site photos on Plan A-4)

- 8.1 The Site is:
- (a) currently used for the applied use without valid planning permission;
  - (b) hard-paved, mostly fenced off; and
  - (c) accessible from Castle Peak Road – Kwu Tung.
- 8.2 The surrounding areas are predominantly rural in character and occupied by logistic use, vehicle parks, rural workshops, and domestic structures:
- (a) to the north and northeast are some domestic structures, vehicle parks, workshops, a stone factory, a temple, and some active and fallow agricultural land;
  - (b) to the immediate east are vehicle parks for trucks, and to the further east are a logistic centre, a warehouse, and some fallow agricultural land;
  - (c) to the south are Castle Peak Road – Kwu Tung and Fanling Highway; and
  - (d) to the west are a car trading shop and Kwu Tung Road.

## 9. **Planning Intentions**

- 9.1 The area shown as ‘Road’ is intended for road development.
- 9.2 The planning intention of the “OU(A)” zone is primarily for the provision of

landscaping and planting to enhance the environment.

- 9.3 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.

## **10. Comments from Relevant Government Departments**

- 10.1 Apart from the government departments as set 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 concerns on the application.

### Environment

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

- (a) She does not support the application since the applied use is expected to generate traffic of heavy vehicles and there are domestic uses within 100m of the site boundary (the nearest domestic structures are to the immediate north 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.

District Officer's Comments

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

- (a) The locals have been consulted. One Indigenous Inhabitant Representative (IIR) of Yin Kong objects on the grounds of congested traffic.
- (b) The Chairman of Sheung Shui District Rural Committee, the incumbent North District Councilor of the subject Constituency, the Chairman of Fung Shui Area Committee, the Resident Representative (RR) of Yin Kong and the RR of Kwu Tung South have no comment.

**11. Public Comments Received During Statutory Publication Period**

11.1 The application was published for public inspection. During the statutory public inspection period, a total of 3 public comments (**Appendix VII**) from individuals were received. 1 individual indicates no comment and 2 comments object to the application mainly for the following reasons:

- (a) The increase in vehicular traffic will cause congestion, bring pollution and increase fire risk, therefore affecting the safety, health, and quality of life of the community.
- (b) The approval conditions of the previous application were not fulfilled.

**12. Planning Considerations and Assessments**

12.1 The application seeks planning permission for temporary coach and container trailer parking with ancillary vehicle repair workshop at the Site for a period of 3 years. The Site mainly falls within an area shown as 'Road' and "OU(A)" zone on the approved KTN OZP No. S/KTN/2 (**Plan A-1**). Area shown as 'Road' is intended for road development and "OU(A)" is intended for amenity planting. 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 are 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, car repair workshops, workshops, logistic centre, car trading shop intermixed with some domestic structures (**Plan A-2a**).

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, Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD), Director of Fire Services (D of FS), 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 12 previous approved applications, of which 10 are for similar container trailer park use between 1993 and 2020 as stated in paragraph 6 above. The last previous planning application No. A/KTN/67 for the same applied use was approved on 6.3.2020, but revoked on 6.8.2022 due to non-compliance with approval conditions related to FSI and drainage. The current application is submitted by the same applicant. Relevant proposals on FSI and drainage have been submitted. CE/MN, DSD and D of FS have no objection in principle to the application. Should the applicant fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration would not be given by the Committee to any further application. There has been no material change in the planning circumstances in the Site and its surrounding areas since last approval given in 2020. Approval for the current application is in line with the TPB PG-No.13F and the previous decision of the Committee.
- 12.6 There are 3 public comments (as stated in paragraphs 11), of which 2 object 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, the Planning Department considers that the temporary coach and container trailer parking with ancillary vehicle repair workshop 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 26.8.2025. 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 on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) 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 26.2.2023;
- (d) in relation to (c) 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 26.5.2023;
- (e) 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 26.2.2023;
- (f) in relation to (e) 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 26.5.2023;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) if any of the above planning conditions (a), (b) or (g) 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
- (i) if any of the above planning conditions (c), (d), (e), (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 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.

**15. Attachments**

<b>Appendix I</b>	Application form with attachments received on 7.7.2022
<b>Appendix Ia</b>	FI dated 29.7.2022
<b>Appendix Ib</b>	FI dated 22.8.2022
<b>Appendix II</b>	Relevant extract of TPB PG-No. 13F
<b>Appendix III</b>	Previous applications
<b>Appendix IV</b>	Similar applications
<b>Appendix V</b>	Government departments' general comments
<b>Appendix VI</b>	Recommended advisory clauses
<b>Appendix VII</b>	Public comments
<b>Drawing A-1</b>	Proposed layout plan
<b>Plan A-1</b>	Location plan
<b>Plan A-2a and 2b</b>	Site plans
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos

**PLANNING DEPARTMENT  
AUGUST 2022**