

RNTPC Paper No. A/NE-KTS/493A
For Consideration by the
Rural and New Town Planning
Committee on 30.4.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/493

<u>Applicants</u>	:	Mr. WONG Chun Hung and Ms. TO Nu
<u>Site</u>	:	Lots 1618 (Part), 1619 and 1620 (Part) in D.D. 100 and Adjoining Government Land, Ying Pun, Kwu Tung South, New Territories
<u>Site Area</u>	:	1,568m ² (including 39m ² of Government land)
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Draft Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/17 (currently in force) Approved Kwu Tung South OZP No. S/NE-KTS/16 (at the time of submission)
<u>Zoning</u>	:	“Recreation” (“REC”) (the zoning of the Site remains unchanged on the extant OZP)
<u>Application</u>	:	Temporary Storage (Detergent, Detergent Containers and Construction Materials) with Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicants seek planning permission to use the application site (the Site) for temporary storage (detergent, detergent containers and construction materials) with ancillary office for a period of 3 years. The Site falls within an area zoned “REC” on the draft Kwu Tung South OZP No. S/NE-KTS/17 (**Plan A-1**). According to the Notes of the OZP, temporary use not exceeding a period of three years requires planning permission from 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.
- 1.2 The Site, in part or in whole, is involved in 10 previous applications. The last application No. A/NE-KTS/452 for temporary storage (cosmetic products, beverages and construction materials) with ancillary office for a period of 3 years submitted by the same applicants of the subject application was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 16.3.2018 for 3 years

until 16.3.2021. The applicants had complied with all the approval conditions.

- 1.3 According to the submission, the applied development comprises a single-storey (6m high) structure for storage of detergent, detergent containers and construction materials as well as ancillary office and toilet uses, and a shelter (6m high) (**Drawing A-1**). The total floor area is 959.5m². The layout plan is at **Drawing A-1**.
- 1.4 The Site is accessible via a track and a village road leading to Fan Kam Road and the ingress/egress is at the south side of the Site. A loading/unloading area for light goods vehicle (LGV) is provided within the Site (**Drawing A-1**). There will be 1 LGV to/from the Site with 2 to 4 trips per day. According to the applicants, traffic signs at the access track are proposed to enhance pedestrian safety (**Drawing A-2**). The operation hours are from 9a.m. to 5p.m. on Mondays to Saturdays and there will be no operation on Sundays and public holidays. A septic tank has been provided within the Site. Existing drainage facility and trees are shown on **Drawing A-1**.
- 1.5 As compared with the previously approved application No. A/NE-KTS/452, there is no change to the development parameters of the applied use except part of the storage materials.
- 1.6 In support of the application, the applicants have submitted the following documents:
 - (a) Application Form with Plans received on 6.1.2021 (**Appendix I**)
 - (b) Replacement Pages of Application Form received on 11.1.2021 (**Appendix Ia**)
 - (c) Further Information (FI) of 4.3.2021[#] (**Appendix Ib**)
 - (d) FI of 20.4.2021[#] (**Appendix Ic**)

[#]exempted from publication
- 1.7 On 26.2.2021, the Committee agreed to defer a decision on the application as requested by the applicants to allow time for preparation of FI to address departmental comments. On 4.3.2021, the applicant submitted FI, and the application is scheduled for consideration by the Committee at this meeting.

2. **Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in **Appendices Ia and Ib**. The applicants state that a previous planning approval for the Site under Application No. A/NE-KTS/452 was granted by the Board and approval conditions in relation to landscape, drainage, traffic and fire service installations have been complied with. There is a loading/unloading space for LGV within the Site, the LGV will not be parked outside the Site.

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

The applicants are two of the “current land owners” (i.e. Lots 1618 and 1620 in D.D. 100)

and have complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the ‘Owner’s Consent/Notification’ Requirements under Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting a site notice within the Site and sending notification letter to the Sheung Shui District Rural Committee (SSDRC) by local registered post. Detailed information would be deposited at the meeting for Member’s inspection. The remaining of the Site (about 2.5% of the Site) is Government land and the “owner’s consent/notification” requirements as set out in TPB PG-No. 31A is not applicable.

4. Background

The Site is not subject to any active enforcement action.

5. Previous Applications

- 5.1 The Site, in part or in whole, is the subject of 10 previous applications. 9 applications were approved with conditions by the Committee and 1 application was rejected by the Board on review. Details of the applications are summarized at **Appendix II** and their locations are shown on **Plans A-1** and **A-2b**.
- 5.2 Applications No. A/NE-KTS/64, 108, 127 and 166 for temporary open storage and/or workshop were approved between 1997 and 2003 for a period of 12 months/3 years mainly on the considerations that the use was generally compatible with the surrounding uses and would not have adverse impacts on the surrounding areas. However, the last 3 applications were revoked due to non-compliance with approval conditions. Application No. A/NE-KTS/185 for a temporary open storage of metal ware for a period of 3 years was rejected in 2004 as the previous approval conditions had not been complied with and no proposals on the outstanding approval conditions were submitted.
- 5.3 Applications No. A/NE-KTS/215, 264, 311, 367 and 452 for temporary open storage of metal ware or storage of metal ware/cosmetic products, beverages and construction materials, submitted by the same applicants of the subject application, were approved between 2005 and 2018 each for a period of 3 years mainly on the considerations that the applicant had submitted drainage, traffic and landscaping proposals and relevant departments had no adverse comments on the proposals; the applied use was not incompatible with the surrounding uses; and the applied use would unlikely have adverse environmental impacts or adverse traffic and drainage impacts on the surrounding areas; the concern of the Director of Environmental Protection (DEP) and locals could be addressed by imposition of relevant approval conditions. The planning permission of the last application lapsed on 16.3.2021 and all approval conditions have been complied with.

6. Similar Applications

- 6.1 There are 10 similar applications involving two sites within the same “REC” zone. They were all approved with conditions by the committee. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 7 applications involving almost the same site to the east of the Site for similar temporary godown were approved between 2006 and 2020 mainly on the grounds that the godown use was not incompatible with the surrounding uses; it would unlikely have significant adverse environmental, traffic, drainage and landscape impacts; and approval of the application would not jeopardise the long-term planning intention of the “REC” zone.
- 6.3 3 applications involving another site to the southwest of the Site for temporary storage/warehouse use were approved between 2013 and 2019 on similar grounds as stated in paragraph 6.2 above.

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

- 7.1 The Site is:
 - (a) hard paved, fenced off and currently used for the applied use; and
 - (b) accessible via a track and a village road leading to Fan Kam Road.
- 7.2 The surrounding areas are predominantly rural in nature with the following characteristics:
 - (a) to the east are domestic structures and a temporary godown with ancillary office and staff quarters approved under Application No. A/NE-KTS/486;
 - (b) to the immediate south is a storage and warehouse;
 - (c) to the immediate southwest is a temporary warehouse of antique vehicles, food and beverages with ancillary office under Application No. A/NE-KTS/472;
 - (d) to the further southwest across the village road are vehicle repair workshops, workshop use;
 - (e) to the west are an open storage of metal ware and a showroom for building materials; and
 - (f) to the north and northwest are mainly some domestic structures and storage use.

8. Planning Intention

The planning intention of the “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views are summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) Lots 1618, 1619 and 1620 in D.D.100 are Old Schedule lots held under the Block Government lease (demised for agricultural use) without any guarantee of right of access. Lots 1618 and 1620 are covered by Short Term Waiver (STW) No. 1457 for the purpose of storage of metal ware and ancillary facilities. The total site coverage and height of the structures erected on the two lots under the said STW shall not exceed 528.4m² and 5.49m respectively;
- (b) the applicants should make their own arrangement for acquiring access to the Site. The Government shall accept no responsibility in such arrangement and there is no guarantee that any adjoining Government land will be allowed for the vehicular access to the Site for the applied use;
- (c) a portion of the Government land within the Site is covered by Short Term Tenancy (STT) No. 1609 for the purpose of open storage of metal ware. No built-over area is permitted under the said STT;
- (d) the development scheme indicates erection of 2 temporary structures within the Site. The total built-over area and height of the applied structures are 959.5m² and 6m respectively. It is noted that the applied parameters are larger than those permitted under STW No. 1457 and they are not acceptable under the Lease concerned and the said STW. In addition, the applicants should ensure that there should be no erection of structure(s) within STT No. 1609. His office reserves the right to take necessary enforcement actions against the irregularities (if detected);
- (e) according to the submission, there is an existing toilet and septic tank system within the Site. The applicants should note that any toilet

facility and septic tank system should meet the current health requirements and the relevant legislations; and

- (f) if the planning application is approved, the owners of the lots concerned shall apply to his office for modification of the STW No. 1457 covering all the actual occupation area and the structures concerned. The application will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the modification of STW is approved, the commencement date would be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of wavier fee and administrative fees as considered appropriate by his office.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) he considers the application could be tolerated from traffic engineering point of view;
- (b) should the application be approved, conditions should be included to request the applicants to implement the pedestrian safety enhancement measure and prohibit vehicles reversing onto public road; and
- (c) the vehicular access between the applied ingress to the Site and Fan Kam Road is not managed by his department. The applicants should seek comment from the responsible party.

Environment

9.1.3 Comments of DEP:

- (a) the applicants are advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environment Aspects of Temporary Uses and Open Storage Sites" (CoP) issued by DEP in order to minimize any potential environmental nuisance; and
- (b) there is no environmental complaint against the Site received by DEP in the past 3 years.

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

the Site is in an area where no public sewerage connection is available.

Landscape

9.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) he has no objection to the application from the landscape planning perspective;
- (b) based on aerial photos between 2015 and 2019, the Site is situated in an area of rural inland plains landscape character surrounded by temporary structures and scattered tree groups. The Site is hard paved with temporary structures. The applied use is not incompatible with the surrounding environments;
- (c) with reference to the layout plan (**Drawing A-1**), the proposed layout is generally similar to that under previous application No. A/NE-KTS/452 and the existing trees are not in conflict with the applied development. Significant adverse impact on existing landscape resources within the Site arising from the applied use is not anticipated;
- (d) should the application be approved, condition should be included to request the applicants to maintain all existing trees within the Site satisfactorily at all time during the approval period; and
- (e) his advisory comments are at **Appendix V**.

Drainage

9.1.6 Comments of CE/MN, DSD:

- (a) he has no objection to the proposal from the public drainage viewpoint; and
- (b) should the application be approved, the following conditions are recommended:
 - (i) submission of a conditional record of the existing drainage facilities on the Site as previously implemented on the same site under the approved planning application No. A/NE-KTS/452 to the satisfaction of his office within 3 months; and
 - (ii) maintenance of those existing drainage facilities properly and rectify those facilities if they are inadequate/ineffective during operation.

Building Matters

9.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

his advisory comments are at **Appendix V**.

Fire Safety

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

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

District Officer's Comments

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

- (a) he has consulted the locals from 9.4.2021 to 23.4.2021; and
- (b) the North District Council (NDC) member of the subject Constituency supports the application. The Chairman of SSDRC and the Resident Representative (RR) of Ying Pun have no comment.

9.2 The following Government departments have no objection to/no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (c) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD);
- (d) Commissioner of Police (C of P); and
- (e) Director of Leisure and Cultural Services (DLCS).

10. Public Comments Received During Statutory Publication Period

On 15.1.2021, the application was published for public inspection. During the three-week statutory publication period, a total of 2 public comments from individuals were received.

One (**Appendix IV-1**) objects to the application mainly on grounds that the applied use will increase the traffic flow resulting in traffic congestion, environmental pollution, fire risk, and adverse impacts on safety and living quality of villagers. The remaining one (**Appendix IV-2**) indicates no comment.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary storage (detergent, detergent containers and construction materials) for a period of 3 years. The Site falls within an area zoned “REC” on the draft Kwu Tung South OZP No. S/NE-KTS/17 (**Plan A-1**). Although the applied use is not in line with the planning intention of the “REC” zone which is intended primarily for recreational developments for the use of the general public, temporary planning permissions for various storage uses have been granted since 1997 and there is not yet any programme or known intention to use the Site for recreational activities. Hence, the approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “REC” zone.
- 11.2 The applied use is considered not incompatible with the surrounding land uses, which are predominantly rural in nature with warehouses, workshops and open storage yards with some domestic structures in the vicinity (**Plan A-2a**). C for T considers the application could be tolerated, and approval conditions prohibiting vehicles reversing onto public road and requesting applicants to implement pedestrian safety enhancement measure are recommended. Other relevant Government departments consulted including DEP, CTP/UD&L, PlanD, CE/MN, DSD and D of FS have no adverse comment on or no objection to the application. There is no environmental complaint against the Site in the past 3 years. To mitigate any potential environmental impacts, approval conditions restricting the operating hours of the development, prohibiting workshops activities on the Site and restricting the type of vehicles entering the Site are recommended. Besides, the applicants will be advised to follow the latest COP issued by DEP. Relevant approval conditions suggested are incorporated in paragraph 12.2.
- 11.3 The Site is involved in 9 previously approved applications for temporary open storage or storage use as stated in paragraph 5. The last application No. A/NE-KTS/452 lapsed on 16.3.2021 and all approval conditions have been complied with. As compared with the last application, there is no change to the development parameters of the applied use except part of the storage materials. Approval of the current application is in line with the previous decisions of the Board.
- 11.4 There are local views conveyed by DO(N) and 2 public comments, with one objecting to the application and one indicating no comment, as stated in paragraphs 9.1.9 and 10. The departmental comments and planning considerations and assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the local views and public comments mentioned in paragraphs 9.1.9 and 10, the Planning Department considers that the temporary storage with ancillary 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 3 years until 30.4.2024. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 5:00 p.m. and 9:00 a.m., as proposed by the applicants, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicants, is allowed on the Site during the planning approval period;
- (c) no workshop activities should be carried out on the Site at any time during the planning approval period;
- (d) no medium/heavy goods vehicles exceeding 5.5 tonnes including container trailer/tractor, as defined in the Road Traffic Ordinance, are allowed to/from the Site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the existing trees on the Site should be maintained at all times during the planning approval period;
- (g) the existing drainage facilities shall be maintained and rectified if found inadequate/ineffective during operation at all times during the planning approval period;
- (h) the submission of a record of the existing drainage facilities on the Site 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 30.7.2021;
- (i) the implementation of the pedestrian safety enhancement measure within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 30.10.2021;
- (j) 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 30.10.2021;

- (k) in relation to (j) above, the implementation of the fire service installations proposal 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 30.1.2022;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (m) if any of the above planning conditions (h), (i), (j) or (k) 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**.

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

the applied use is not in line with the planning intention of the "REC" zone in the Kwu Tung South area which is primarily for recreational developments for the use of the general public to encourage the development of active and/or passive recreation and tourism/eco-tourism. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

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 applicants.

14. Attachments

Appendix I	Application Form with Plans received on 6.1.2021
Appendix Ia	Replacement Page of Application Form received on 11.1.2021
Appendix Ib	FI of 4.3.2021

Appendix Ic	FI of 20.4.2021
Appendix II	Previous Applications
Appendix III	Similar Applications
Appendices IV-1 to IV-2	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Proposed Traffic Improvement Measure
Plan A-1	Location Plan
Plans A-2a and A-2b	Site Plans
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

PLANNING DEPARTMENT
APRIL 2021