

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/532

- Applicant** : Grand Dragon Capital Investment Limited
represented by Allgain Land Administrators (Hong Kong) Limited
- Site** : Lot 2205 RP (Part) in D.D. 92, Kam Tsin, Kwu Tung, Sheung Shui
- Site Area** : 1,060m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/19
(*at the time of submission*)
- Approved Kwu Tung South OZP No. S/NE-KTS/20 (*currently in force*)
[the zoning and development restrictions of the application site (the Site)
remain unchanged]
- Zoning** : “Recreation” (“REC”)
- Application** : Proposed Temporary Warehouse (Hardware Accessories) with Ancillary
Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the Site for temporary warehouse (hardware accessories) with ancillary office for a period of 3 years. The Site falls within an area zoned “REC” on the approved Kwu Tung South OZP No. S/NE-KTS/20. According to the Notes of the OZP, ‘Warehouse’ is neither a Column 1 nor Column 2 use within “REC” zone. Notwithstanding this, temporary use or development of any land or building not exceeding a period of 3 years may be allowed with permission from the Town Planning Board (the Board). The Site is paved and currently used for open storage/storage.
- 1.2 According to the applicant, the proposed use comprises four single storey and two 2-storey structures with a total gross floor area (GFA) of about 524m² and building

height (BH) of about 3m to 9m for warehouses, ancillary office, reception and storage room, toilet and meter room. The operation hours are from 8:00 a.m. to 6:00 p.m. (Mondays to Saturdays), and there will be no operation on Sundays and public holidays. No storage of large machinery and no workshop activities will be carried out at the Site. There will be no parking space within the Site while one loading/unloading space for light goods vehicles will be provided to facilitate the operation. The Site is accessible from Kam Tsin South Road via a local access. The layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application Form with attachments received on 13.9.2023 (Appendix I)
 - (b) Further Information (FI) received on 10.1.2024[#] (Appendix Ia)
 - (c) FI received on 5.3.2024[#] (Appendix Ib)
- [#] *accepted and exempted from publication and recounting requirements*

1.4 On 10.11.2023 and 1.3.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to the applicant's request to defer making a decision on the application for two months each to allow more time for the applicant to address departmental comments.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendices I to Ib** as summarised below:

- (a) the proposed development is only on a temporary basis and will not frustrate the long-term planning intention of the "REC" zone;
- (b) the Site has been occupied by open storage/storage use. A number of warehouse uses can be found in the vicinity of the Site or have been approved by the Board in other "REC" zones within Kwu Tung South area, and their planning circumstances are similar to that of the Site; and
- (c) the proposed development is not incompatible with the surrounding areas, which will not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. The applicant will follow the relevant government code of practices, guidelines and ordinances to minimise possible environmental impacts.

3. **Compliance with the "Owner's Consent/Notification" Requirements**

The applicant is the sole "current land owner". Detailed information would be deposited at the meeting for Members' inspection.

4. **Background**

The Site is currently not subject to any planning enforcement action.

5. **Previous Application**

The Site is not involved in any previous application.

6. **Similar Applications**

- 6.1 While there is no similar application within the same “REC” zone, there are nine similar applications involving temporary warehouse/storage uses within other “REC” zones on the same OZP in the past five years. Eight of them were approved and one was rejected. Details of these similar applications are summarised at **Appendix II** and their locations are shown on **Plans A-1a** and **A-1b**.

Approved applications

- 6.2 Applications No. A/NE-KTS/452, 472, 486, 493, 514, 517, 520 and 527 for temporary warehouse/storage uses were approved by the Committee between 2018 and 2023, mainly on the grounds that approval of the applications would not jeopardise the long-term planning intention of the “REC” zone; and the developments were considered not incompatible with the surrounding land uses. The planning permission under application No. A/NE-KTS/493 was subsequently revoked in October 2022 due to non-compliance with approval conditions.

Rejected application

- 6.3 Application No. A/NE-KTS/491 for temporary warehouse use was rejected by the Committee in 2020, mainly on the grounds that there was no strong justification for a departure from the planning intention, even on a temporary basis; and the applicant failed to demonstrate that the proposed development would not generate adverse traffic impact on the surrounding areas. The application site was subsequently subject to another application (No. A/NE-KTS/517) for similar use, which was approved with conditions in 2023 (as shown on **Plan A-1a**).

7. **The Site and Its Surrounding Areas** (Plans A-1a to A-4)

- 7.1 The Site is:

- (a) fenced, paved and currently used for open storage/storage; and
- (b) accessible from Kam Tsin South Road via a local access.

- 7.2 The surrounding areas are predominantly rural in nature intermixed with open storage yards, warehouses, workshops, houses/domestic structures, fallow agricultural land and vacant land. Some of the surrounding uses are suspected unauthorised developments subject to planning enforcement action. A temporary animal boarding establishment covered by valid planning permission under application No. A/NE-KTS/524¹ which is under implementation is to the immediate southwest of the Site.

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.

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 following government department has concerns on the application:

Local views

- 9.2.1 Local views/comments conveyed by the District Officer (North), Home Affairs Department (DO(N), HAD) are as follows:

- (a) the former North District Councilor of N16 Constituency objects to the application and considers that the proposed development would cause noise nuisance to the nearby residents and it would encourage more similar applications; and
- (b) the Chairman of Sheung Shui District Rural Committee, the Indigenous Inhabitant Representative and the Resident Representative of Kam Tsin have no comment.

10. Public Comments Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory publication period, 4 public comments were received from individuals. Three individuals object to the application

¹ Application No. A/NE-KTS/524 for a temporary animal boarding establishment was approved by the Committee on 21.4.2023 mainly on the grounds that the proposed development was not incompatible with the surrounding areas and no adverse departmental comments.

mainly for the reasons that the proposed development would cause noise nuisance to the nearby residents and it would encourage more similar applications. One individual indicates no comment on the application.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse (hardware accessories) with ancillary office for a period of 3 years at the Site zoned “REC” on the OZP (**Plan A-1a**). The proposed four single storey and two 2-storey structures have a total GFA of about 524m² with BH of about 3m to 9m. The proposed development is not in line with the planning intention of “REC” zone, which is intended primarily for recreational developments for the use of the general public. However, there is no known development proposal of the Site for recreation uses. 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 proposed use is considered not entirely incompatible with the surrounding areas, which are predominantly rural in nature intermixed with open storage yards, warehouses, workshops and some domestic structures (**Plan A-2**).
- 11.3 Concerned government departments consulted, including Commissioner for Transport (C for T), Chief Engineer/Mainland North of Drainage Services Department, Chief Town Planner/Urban Design & Landscape of Planning Department and Director of Fire Services, have no adverse comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. In addition, to address local concerns on potential noise nuisance as stated in paragraph 9.2.1 above, the applicant will be advised to adopt the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by the Director of Environmental Protection.
- 11.4 While there was one similar application rejected by the Committee in 2020 due to insufficient information/justifications submitted on traffic ground, the Committee has approved eight similar applications involving warehouse/storage uses within “REC” zones in the same OZP between 2018 and 2023 (including an approval for the site of the rejected application mentioned above). Taking into consideration the justifications provided by the applicant, no adverse departmental comments (including C for T has no comment on traffic ground) and the similar approvals, approval of this application is not in conflict with the previous decisions of the Committee.
- 11.5 Regarding the public comments objecting to the application as detailed in paragraph 10 above, government departments’ comments and planning 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 public comments mentioned in paragraph 10, the Planning Department considers that the temporary warehouse (hardware accessories) 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 19.4.2027. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no dismantling, repairing, cleaning and other workshop activities are allowed on the Site at any time, as proposed by the applicant, during the planning approval period;
- (b) the submission of a 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 19.10.2024;
- (c) in relation to (b) 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 19.1.2025;
- (d) the submission of a 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 19.10.2024;
- (e) in relation to (d) above, the implementation of the 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 19.1.2025;
- (f) ***in relation to (e) above***, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) if any of the above planning conditions (a) or (f) 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
- (h) if any of the above planning conditions (b), (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 IV**.

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

the proposed 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 attachments received on 13.9.2023
Appendix Ia	FI received on 10.1.2024
Appendix Ib	FI received on 5.3.2024
Appendix II	Similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Layout plan
Plans A-1a and 1b	Location plans
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos