

**Previous s.16 Application within “V” Zone on the
Approved Fanling/Sheung Shui Outline Zoning Plan No. S/FSS/24**

Approved Application

Application No.	Proposed Developments	Date of Consideration	Approval Conditions
A/FSS/276	Proposed House and Social Welfare Facility (Residential Care Home for the Elderly) and Minor Relaxation of Building Height Restriction	06/09/2019	A1-A6

Approval Conditions

- A1 The submission and implementation of landscape proposal
- A2 The submission of a Noise Impact Assessment and the implementation of the mitigation measures
- A3 The submission of a revised Sewerage Impact Assessment
- A4 The implementation of a sewerage connection proposal identified in the Sewerage Impact Assessment
- A5 The submission and implementation of a drainage proposal
- A6 The provision of fire service installations and water supplies for fire-fighting

**Similar s.16 Application for Proposed House and
Social Welfare Facility (Residential Care Home for the Elderly)
Within the same "V" zone on the
Approved Fanling/Sheung Shui Outline Zoning Plan No. S/FSS/24**

Rejected Application

Application No.	Uses/Developments	Date of Consideration	Rejection Reasons
A/FSS/164	House	13/01/2006	R1 – R4

Reject Reasons

- R1 The proposed development was not in line with the planning intention of the "Village Type Development" zone which was to designate both existing recognized villages and areas of land considered suitable for village expansion and intended for development of Small Houses by indigenous villagers
- R2 The approval of the application would jeopardise the implementation of the Fanling/Sheung Shui Areas 17 and 22 Layout Plan
- R3 There was insufficient information in the submission to demonstrate that the proposed development would not cause adverse traffic impact on the existing footpath and cycle track
- R4 The approval of the application would set an undesirable precedent for other similar applications. The cumulative effect would result in a loss of land for Small House development in the area

Comments from Relevant Government Departments

1. Environment

Comment of the Director of Environment Protection (DEP):

In preparation of the Noise Impact Assessment, the applicant is required to note his observations on the submitted Environmental Assessment (**Appendix Ia**) as shown below:

- (a) Section 3.4.7 – Should the GBP adopts fixed glazing with maintenance window, mechanisms should be provided to inform future occupants on the purpose of the maintenance window and it's not intended for ventilation purpose;
- (b) Appendix A – TD's agreement on the traffic forecast data adopted for road traffic noise assessment shall be provided. Should TD only expresses no comment on the methodology for traffic forecast, the applicant should provide written confirmation from respective competent party (e.g. traffic consultant) that TD's endorsed methodology has been strictly adopted in preparing the traffic forecast data and hence the validity of traffic data can be confirmed;
- (c) Appendix B – mPD levels of the assessment points should be provided; and
- (d) The applicant should be reminded to check with CEDD on the latest alignment of proposed roads and road improvement works under NENT NDAs.

2. Building Matters

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

- (a) If the existing structures are erected on leased land without approval of the Building Authority (BA) (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designed for any use under the application;
- (b) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Ste, the prior approval and consent from the BA should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
- (c) For UBW erected on leased land, enforcement action may be taken by the BA to effect their removal in accordance with BDs enforcement policy against UBW as and when necessary. The granting of any planning approval should not be constructed as an acceptance of any existing building works or UBW on the Site under the BO;
- (d) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations respectively; and

- (e) Lot 1981 RP in D.D. 51 is alienated from the other lots of D.D. 51 in the subject development. These 2 sites should be considered as separate sites for the purpose of plot ratio, site coverage and other provisions under the BO.

3. Landscape

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

- (a) The Site is located to the south of Ma Sik Road, falls within an area zoned “Village Type Development” (“V”) on the approved Fanling/Sheung Shui Outline Zoning Plan (OZP) No. S/FSS/24. The Site is the subject of a previous planning application (No. A/FSS/270) approved by the Board in 2019 for the same proposed use, to which, she had no objection from the landscape planning perspective;
- (b) Based on the aerial photo of 2018 and site photos under Appendix 9 of the planning statement (**Appendix Ia**), the Site is situated in an area of residential urban fringe landscape character, surrounded by village houses and clusters of trees. The Site is hard paved and in operation as vehicle park, no significant sensitive landscape resource is found within the Site, hence, significant adverse impact arising from the proposed development on existing landscape resources is not anticipated; and
- (c) Furthermore, the Site is in operation and surrounded by village houses within the same “V” zone, the proposed development is considered not entirely incompatible with the landscape character of the surrounding environment.

Recommended Advisory Clauses

- (a) to note the comments of the District Lands Officer/North, Lands Department that the applicant is required to submit a land exchange application for the proposed development. LandsD acting in the capacity as landlord will consider the land exchange application which, if approved, will be subject to such terms and conditions as considered appropriate including the payment of premium and administrative fee. There is no guarantee that the land exchange application will be approved nor the right of way over the concerned GL as referred above will be granted;

- (b) to note the comments of Director of Environmental Protection that in preparation of the Noise Impact Assessment, the applicant is required to note his observations on the submitted Environmental Assessment (**Appendix Ia**) as shown below:
 - (i) Section 3.4.7 – Should the GBP adopts fixed glazing with maintenance window, mechanisms should be provided to inform future occupants on the purpose of the maintenance window and it's not intended for ventilation purpose;

 - (ii) Appendix A – TD's agreement on the traffic forecast data adopted for road traffic noise assessment shall be provided. Should TD only expresses no comment on the methodology for traffic forecast, the applicant should provide written confirmation from respective competent party (e.g. traffic consultant) that TD's endorsed methodology has been strictly adopted in preparing the traffic forecast data and hence the validity of traffic data can be confirmed;

 - (iii) Appendix B – mPD levels of the assessment points should be provided;

 - (iv) The applicant should be reminded to check with CEDD on the latest alignment of proposed roads and road improvement works under NENT NDAs;

- (c) to note the comments of Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that
 - (i) If the existing structures are erected on leased land without approval of the Building Authority (BA) (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designed for any use under the application;

 - (ii) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Ste, the prior approval and consent from the BA should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person should be

appointed as the co-ordinator for the proposed building works in accordance with the BO;

- (iii) For UBW erected on leased land, enforcement action may be taken by the BA to effect their removal in accordance with BDs enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO;
 - (iv) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage;
 - (v) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations respectively;
 - (vi) Lot 1981 RP in D.D. 51 is alienated from the other lots of D.D. 51 in the subject development. These 2 sites should be considered as separate sites for the purpose of plot ratio, site coverage and other provisions under the BO;
- (d) to note the comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD) that section of Ma Sik Road adjacent to the Site is under HyD's maintenance purview. From the schematic master layout plan, he noted that the applicant had put down a vehicular access road from Ma Sik Road routing through the footpath, cycle track and a portion of unallocated government land (UGL) to the Site. As part of the access road is on UGL which is outside HyD's jurisdiction, the maintenance responsibility of this part of access road should be sorted out with DLO/N. To re-construct the run-in/out, the applicant is required to apply for an excavation permit;
- (e) to note the comments of Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standard;
- (f) to note the comments of the Director of Fire Services (D of FS) that
- (i) the height restriction for RCHE as stipulated in section 20 of Residential Care Homes (Elderly Persons) Regulations, Cap 459A should be observed;
 - (ii) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans; and

- (iii) EVA arrangement shall comply with Section 6, Part D of the Code of Practice of Fire Safety in Buildings 2011 under the Building (Planning) Regulation 41D which is administered by Buildings Department;
- (g) to note the comments of the Director of Social Welfare (DSW) that:
 - (i) having considered the high service demand for RCS for the elderly in the community, he has no objection in-principle to the application from welfare point of view for the setting-up of a RCHE at the captioned site, subject to the town planning considerations and on conditions that there will be no capital or recurrent financial implication to the Government; and
 - (ii) the applicant is reminded at the present stage that for an RCHE licence to be issued, the proposed RCHE has to comply with the licensing requirements as stipulated in the Residential Care Homes (Elderly Persons) Ordinance, Cap. 459, its subsidiary legislation and the latest version of Code of Practice for Residential Care Homes (Elderly Persons) (CoP) (January 2020 Revised Edition). Meanwhile, for there being parking spaces on the basement level for the RCHE, please remind the operator that the RCHE (or any part of it) should not be, in general, situated on the basement floor, according to para. 5.2.3 of CoP.

