

**Similar s.16 Application
within the same “AGR” Zone
on the Shek Kong Outline Zoning Plan (OZP)**

Rejected Application

	Application No.	Use(s)/Development(s)	Date of Consideration	Rejected Reasons
1.	A/YL-SK/226	Proposed Temporary Animal Boarding Establishment for a Period of 3 Years	10.11.2017	R1 – R3

Rejected Reasons:

- R1. The proposed development is not in line with the planning intention of the “Agriculture” (“AGR”) zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the current submission for a departure from the planning intention, even on a temporary basis.
- R2. The applicant fails to demonstrate that the proposed development would not generate adverse traffic impact on the surrounding areas.
- R3. Approval of the application would set an undesirable precedent for similar applications within this part of the “AGR” zone. The cumulative effect of approving such applications would result in general degradation of the rural environment of the area.

Advisory Clauses

- (a) prior planning permission should have been obtained before commencing the applied use at the Site.
- (b) to note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL of LandsD) that:
 - (i) the Site comprises an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government;
 - (ii) the Site is accessible from Kam Sheung Road via Government Land (GL) and private land. His office provides no maintenance work for GL involved and does not guarantee any right-of-way over GL to the Site.
 - (iii) the Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed the relevant airfield height limit within SKAHRA;
 - (iv) according to the prevailing guidelines of LandsD, application for Short Term Waiver (STW) of the undertaking must not be an offensive trade and must not give rise to environmental pollution. Referring to the applicant's proposal, Structure Nos. 2 and 9 would be used for animal cremation purposes; and
 - (v) the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the applied use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.
- (c) to note the comments of the Commissioner for Transport (C for T) that the local access between Kam Sheung Road and the Site is not managed by Transport Department (TD). The land status of the local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW of HyD) that HyD is not/shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road. Adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.

- (e) to note the comments of the Director of Agriculture, Fisheries and Conservation (DAFC) that under the Public Health (Animals) (Boarding Establishment) Regulations, Cap. 139I, any person who provides food and accommodation for animals in return for a fee paid by the owner must apply for a Boarding Establishment Licence from his department. Should the application be approved, the applicant is reminded that the establishment and ancillary facilities which is licensed under the said Regulations must always fulfil the criteria listed in the said Regulations. The dogs kept by the applicant should also be properly licensed as in accordance with Cap. 421 Rabies Ordinance and he is reminded to observe Cap. 169 Prevention of Cruelty to Animals Ordinance at all times.
- (f) to note the comments of the Director of Environmental Protection (DEP) that:
 - (i) the applicant is strongly advised to properly design and maintain the facilities to minimize any potential environmental nuisance, e.g. the boarding establishment should be enclosed with proper soundproofing materials and provision of 24-hour mechanical ventilation & air-conditioning system, the outdoor activity area should be located away from adjacent sensitive receivers and/or provided with necessary mitigation measures, etc; and
 - (ii) the applicant is also reminded to observe/note (a) the requirement stipulated in the latest “Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storage Sites” issued by his department to minimize any potential environmental nuisances; (b) effluent discharges from the Site are subject to control under the Water Pollution Control Ordinance. It is the obligation of the applicant to meet all statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures to prevent polluting the watercourse adjacent to the Site; (c) the requirements stipulated in the Practice Note for Professional Persons (ProPECC PN) 5/93 “Drainage Plans subject to Comment by the EPD” with regard to the soakaway and septic tank system, if connection to public sewers is not feasible; and (d) the requirements stipulated under the Air Pollution Control Ordinance and “A Guide to the Air Pollution Control (furnaces, Ovens and Chimneys) (Installation and Alternation) Regulations” issued by his department.
- (g) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C of WSD) that for provision of water supply to the applied development, 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.
- (h) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW of BD) that:
 - (i) if the existing structures (not being a New Territories Exempted Houses) are erected on leased land without approval of the Building Authority (BA), they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any applied use under the application;

- (ii) for UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with BD's 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 BO;
 - (iii) before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW under BO. An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with BO;
 - (iv) 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;
 - (v) 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) Regulations at the building plan submission stage; and
 - (vi) if the applied use under the application is subject to issue of a license, the applicant is reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.
- (i) to note the comments of the Director of Fire Services (D of FS) that:
- (i) in consideration of the design/nature of the proposal, fire service installations (FSIs) are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location where the proposed FSI to be installed should be clearly marked on the layout plans; and
 - (ii) the applicant is reminded that if the proposed structure(s) is required to comply with BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.
- (j) to note the comments of the Director of Food and Environmental Hygiene (DFEH):
- (i) if the proposal involves any commercial/trading activities, no environmental nuisance should be generated to the surroundings. The proposal should not be a nuisance or injurious or dangerous to health and surrounding environment. Also, for any waste generated from the related commercial/trading activities, the applicant should handle on their own / at their expenses; and
 - (ii) any animal carcass/parts shall be properly wrapped or bagged before disposal.

