

Previous s.16 Application

Rejected Application

	Application No.	Use(s)/Development(s)	Date of Consideration	Rejected Reasons
1.	A/YL-SK/40	Temporary Open Storage of Building Materials for a Period of 12 Months	16.5.1997	R1 – R4

Rejected Reasons:

- R1. The proposed development was not in line with the planning intention of the “Agriculture” (“AGR”) zone, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the submission for a departure from the planning intention.
- R2. As two areas zoned “Open Storage” (“OS”) are reserved in the vicinity on the draft Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/1 to provide for the development of open storage of goods which cannot be accommodated in conventional godown premises, there is no justification to allow open storage to proliferate in the “Agriculture” (“AGR”) zone even on a temporary basis.
- R3. There is insufficient information in the submission to demonstrate that the proposed development will not have adverse visual and drainage impacts on the surrounding areas.
- R4. The approval of the application will set an undesirable precedent for other similar applications, the cumulative effect of which will further degrade the environment in the area.

**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/87	Temporary Open Storage of Building Materials for 3 Years	22.10.1999	R1 – R5

Rejected Reasons:

- R1. The proposed development is not in line with the planning intention of the “Agriculture” (“AGR”) zone which is to retain and safeguard good agricultural land for agricultural purposes and to retain fallow arable land with good potential for rehabilitation. It is also not in line with the planning intention of the “Village Type Development” (“V”) zone which is to designate both existing recognised villages and areas of land considered suitable for village expansion. No strong justification has been given for a departure from such planning intentions, even on a temporary basis.
- R2. The proposed development is not compatible with the surrounding areas which are predominantly rural in character with cultivated/fallow agricultural land, farm houses and village houses.
- R3. There is no information in the submission to demonstrate why suitable sites within areas zoned “Industrial (Group D)” (“I(D)”) and “Open Storage” (“OS”) in the Kam Tin, Pat Heung and Shek Kong areas cannot be made available for the development.
- R4. There is insufficient information in the submission to demonstrate that the proposed development would not have adverse drainage impact on the surrounding areas.
- R5. Approval of the application would set an undesirable precedent for similar uses to penetrate into the “AGR” and “V” zones. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area

Advisory Clauses

- (a) the permission is given to the development under application. It does not condone any other development which currently exists on the Site but not covered by the application. The applicant should be requested to take immediate action to discontinue such development not covered by the permission;
- (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). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site;
 - (iii) the Site falls within the Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed relevant airfield height limit within the SKAHRA; and
 - (iv) 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 proposed 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(s) 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 Site is connected to the public road network via a section of a local access road which is not managed by Transport Department (TD). The land status of the local access road should be checked with the 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:
 - (i) HyD is not and shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road;
 - (ii) the applicant should provide the run in/out at Kam Sheung Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133,

H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement;

- (iii) the applicant shall be responsible for any modification of the existing underground utilities for the proposed run-in/out. Comment from the underground utility company on the proposed modification works should be sought; and
 - (iv) 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 Environmental Protection (DEP) to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storage Sites” issued by his department to minimise any potential environmental nuisances.
- (f) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C of WSD) that:
- (i) existing water mains at/near the Site will be affected. A waterworks reserve within 1.5 meters from the centerline of the water mains shall be provided to WSD. No structure shall be built or materials stored within the waterworks reserve. Free access shall be made available at all times for staff of the Director of Water Supplies or his contractor to carry out construction, inspection, operation, maintenance and repair works;
 - (ii) no trees or shrubs with penetrating roots may be planted within the waterworks reserve or in the vicinity of the water main at/near the Site; and
 - (iii) the Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.
- (g) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW of BD) that:
- (i) 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 Building Authority (BA) should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO;
 - (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 the BO;
 - (iii) 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

- (iv) the Site does not abut on a specified street of not less than 4.5m wide, and its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulations at the building plan submission stage.
- (h) 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 are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed fire service installations to his department for approval. In formulating the proposal, the applicant is advised to make reference to the following requirements:
- the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy;
 - the location of where the proposed fire service installations to be installed should be clearly marked on the layout plans;
 - the following good practice guidelines for open storage should be adhered to; and

	Internal access for fire appliances	Lot boundaries (clear width)	Distance between storage cluster and temporary structure	Cluster size	Storage height
(1) Open Storage of Containers	-	2m	4.5m	-	-
(2) Open Storage of non-combustibles or limited combustibles	4.5m	2m	4.5m	-	-
(3) Open storage of combustibles	4.5m	2m	4.5m	40m x 40m	3m

Remarks: Smoking and naked flame activities shall not be allowed within the open storage/recycling site.

- (ii) the applicant is reminded that if the proposed structure(s) is required to comply with the BO, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

