

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.

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) within the Site, a Modification of Tenancy (MOT) permit no. MT/LM 13701 was issued to permit the erection of specified agricultural structures on Lot 297 S.A ss.2 in D.D. 112; and
 - (iii) 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. 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 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 and 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 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 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 approved 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 prevailing 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; and
 - (v) 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.
- (g) 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.