

**Previous S.16 Application**

**Rejected Applications**

<b>Application No.</b>	<b>Uses/ Development</b>	<b>Date of Consideration</b>	<b>Rejection Reasons</b>
A/NE-LK/76	Proposed House (New Territories Exempted House - Small House)	9.11.2012	R1 - R3
A/NE-LK/102	Proposed House (New Territories Exempted House - Small House)	6.11.2015	R2, R4 - R6

**Rejection Reasons**

- R1        The proposed development was not in line with the planning intention of the "Recreation" zone in that the zone was primarily for recreational developments for the use of the general public. It encouraged the development of active and/or passive recreation and tourism/eco-tourism.
- R2        Land was still available within the "Village Type Development" zone of Yim Tso Ha Village where land was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructures and services.
- R3        The proposed development likely involved site formation works and might cause potential adverse ecological impacts on the natural habitats including freshwater marsh, agricultural land and a stream. However, there was a lack of information in the subject application to address the potential ecological impacts. The applicant had failed to demonstrate that the proposed development would not have adverse ecological impact on the surrounding area.

- R4 The proposed development was not in line with the planning intention of the "Recreation" zone in the Luk Keng and Wo Hang area which was primarily for recreational developments for the use of the general public and encouraged the development of active and/or passive recreation and tourism/eco-tourism. There was no strong planning justification in the submission for a departure from the planning intention.
- R5 The applicant failed to demonstrate in the submission that the proposed development would not have adverse ecological impact on the surrounding area.
- R6 The approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

**Recommended Advisory Clauses**

- (a) prior planning permission should have been obtained before commencing the applied use at the Site;
- (b) the permission is given to the development/use under application. It does not condone any other development/use which are not covered by the application;
- (c) to note the comments of the District Lands Officer/North, Lands Department that:
  - (i) the Site comprises Old Schedule Agricultural Lots held under the Block Government Lease demised for agricultural use without any guaranteed right of access. The applicant should make its own arrangement for acquiring access, and there is no guarantee that any adjoining Government Land will be allowed for the vehicular access of the development;
  - (ii) the Site is surrounded by private lots. If the applicant wishes to gain access through private lots, it should seek consent from individual lot owner concerned. The Government will accept no responsibility in such arrangement; and
  - (iii) should the application be approved, the owners of the lots concerned shall apply to her office for a Short Term Waiver (STW) covering all the actual occupation area. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW is approved, their commencement date would be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by her office;
- (d) to note the comments of the Commissioner for Transport that the vehicular access between the Site and Sha Tau Kok Road are not managed by her office. The applicant should seek comment from the responsible party;
- (e) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that:
  - (i) based on the limited information provided in the application, should there be any supporting structure for the solar panel system which may fall within Item 1.19 under Class I and Item 3.15 under Class III under the control of MWCS, the applicant is advised to consult Prescribed Building Professional and/or Prescribed Registered Contractor and carry out the minor works through the simplified requirements under the MWCS. If the proposed supporting structure for the solar panel system exceeds the restriction of the above items under MWCS, the applicant shall consult building professionals for advice and make formal application for prior approval and consent from the Building Authority (BA);
  - (ii) if the existing structures are erected on leased land without approval of the Buildings Department (BD) not being a New Territories Exempted House, they are

unauthorised under the Building Ordinance (BO) and should not be designated for any approved use under the captioned application;

- (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, the prior approval and consent of the BA should be obtained, otherwise they are UBW under the Building Ordinance (BO). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
  - (iv) for UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the 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 works or UBW on the Site under the BO;
  - (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) Regulation (B(P)R) respectively;
  - (vi) 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 B(P)R at the building plan submission stage; and
  - (vii) detailed comments under the BO will be provided at building plan submission stage;
- (f) to note the comments of the Director of Fire Services that:
- (i) in consideration of the design/nature of the proposal, 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 applicant should also be advised on the following points:
    - the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
    - the location of where the proposed FSIs to be installed should be clearly marked on the layout plans; and
  - (ii) the applicant should be reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans;
- (g) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that:
- (i) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse impact to the adjacent area; and
  - (ii) there is no public sewerage near the Site;

- (h) to note the comments of Director of Environmental Protection that the applicant is reminded to strictly comply with relevant pollution control ordinances, including Waste Disposal Ordinance and Water Pollution Control Ordinance and to implement appropriate pollution control measures to minimize any potential environmental impacts during construction of the project. Reference could be made to relevant publications /guidelines including Recommended Pollution Control Clauses for Construction Contracts and Professional Persons Environmental Consultative Committee Practice Notes (ProPECC PN) 1/94, "Construction Site Drainage"; and
- (i) to note the comments of Chief Town Planner/Urban Design and Landscape, Planning Department that the applicant may wish to consider measures to further soften the edge of the installation to better blend in with the surrounding.