

Previous S.16 Application

Rejected Application

Application No.	Uses/ Development	Date of Consideration	Rejection Reasons
A/NE-MUP/75	Temporary Open Storage of New and Second-hand Vehicles (including 2 Private Cars and 4 Light Goods Vehicles) for a Period of 3 Years	7.12.2012	R1 - R4

Rejection Reasons

- R1 The application was not in line with the planning intention of the "Agriculture" 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 such planning intention, even on a temporary basis.
- R2 The application did not comply with the Town Planning Board (TPB) Guidelines No.13E for 'Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance' in that the proposed development was not compatible with the surrounding land uses which were predominantly rural in character; there was no previous planning approval granted at the site; and there were adverse comments from the relevant government departments and local objections against the application.
- R3 The proposed development was incompatible with the rural character of the surrounding area which was predominantly agricultural land with domestic structures in its close vicinity.
- R4 There was no information in the application to demonstrate that the proposed development would have no adverse environmental and landscape impact on the surrounding areas.

Recommended Advisory Clauses

- (a) to note the comments of the District Lands Office/North, Lands Department (DLO/N, LandsD) on the following:
- (i) the lots are an Old Schedule Lots held under the Block Government Lease (demised for agriculture use) without any guaranteed right of access. The applicant should make his own arrangement, and there is no guarantee that any adjoining Government land (GL) will be allowed for the vehicular access of the proposed use;
 - (ii) the existing structures on the subject lots were erected without approval from her office. The aforesaid structures are not acceptable under the Lease concerned and she reserves the right to take necessary lease enforcement actions against the aforesaid structure;
 - (iii) the total number and location of the existing structures erected on the Site are different from that of the proposed one under the development schedule of the planning application. The Site is now mostly fenced off by metal hoardings;
 - (iv) the proposed structures on the subject lots will include a structure for toilet use. The applicants should note that any proposed septic tank and soakage pit system should meet current health requirements, and that they should apply for Certificates of Exemption for Building Works and Drainage Works from her office;
 - (v) the GL between Lots 50 and 52 RP is being occupied without approval from her office. Her office reserves the right to take land control actions against the unauthorized occupation of GL (**Plan A-2**);
 - (vi) the application boundary and the actual occupation boundary do not tally; and
 - (vii) if the planning application is approved, the owner of the lot concerned shall apply to his office for a Short Term Waiver (STW) and Short Term Tenancy (STT) for the erection of animal boarding establishment and site office, and regulation of the unauthorized occupation of GL respectively. The application for STW and STT will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW/STT are 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 fee as considered appropriate by her office;
- (b) to note the comments of the Commissioner of Transport that the local track leading to the Site is not managed by Transport Department. The applicant should seek comment from the responsible party;
- (c) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that the Site is in an area where no public sewer connection is available;
- (d) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) on the following:

- (i) before any new building works (including temporary buildings/structures and containers etc.) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorised Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
 - (ii) for UBW erected on leased land, enforcement action maybe taken by the BA 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 application site under the BO;
 - (iii) any temporary shelters or converted containers for storage or washroom or workshop or other uses are considered as temporary buildings are subject to the control of Part VII of the Building(Planning) Regulations;
 - (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 (B(P)Rs) respectively; and
 - (v) if the Site does not abut 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)Rs at the building plan submission stage; and
 - (vi) formal submission under the BO is required for any proposed new works, including any temporary structures. Detailed comments under BO will be provided at the building plan submission stage.
- (e) to note the comments of the Chief Engineer/Construction, Water Services Department (WSD) that for provision of water supply to the development, the applicant may need to extend the 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 Agriculture, Fisheries and Conservation on the following:
- (i) 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 her department. The applicant should also be reminded that the establishment and ancillary facilities which is licenced under the Public Health (Animals) (Boarding Establishment) Regulations, Cap. 1391 (the Regulations) must always fulfil the criteria listed in the Regulations; and
 - (ii) the dogs kept by the applicant should also be properly licensed as in accordance with the Rabies Ordinance, Cap. 421 and the applicant is reminded to observe the Prevention of Cruelty to Animal Ordinance, Cap. 169 at all times.
- (g) to note the comments of the Director of Food and Environmental Hygiene that the operation of the animal boarding establishment should not cause any environmental hygiene problems at and in the vicinity of the Site. Any animal carcass/ parts shall be properly wrapped or bagged before disposal; and

- (h) to note the comments of the Director of Environmental Protection on the following:
- (i) the applicants are advised to provide adequate information to demonstrate that the proposed use would not cause adverse environmental impacts/ nuisance to the nearby sensitive receivers:-
- Odour impact**
- (ii) the applicants should provide information regarding housekeeping/ management from odour perspective to support that good hygiene conditions are maintained and unacceptable odour impact imposed on nearby Air Sensitive Receivers could be avoided in the operational phase;
- Water and Sewerage aspect**
- (iii) it is understood that the Site is in an area where no existing or planned sewerage connection is available. The applicants should advise the sewage treatment and/ or disposal method of the proposed use;
- Noise aspect**
- (iv) the applicants should provide information regarding noise mitigation measures in place to avoid noise impacts to the nearby Noise Sensitive Receivers (NSRs), including:-
- the applicants should clarify if there would be noise (e.g. dog barking and whistling etc) arising from dogs in the outdoor area, in particular the proposed swimming pool(s) for dogs on site. The applicant should clarify how relevant noise would be properly mitigated;
 - the applicants should advise whether the animal boarding establishment will rely on any openable window/ door for ventilation. If yes and if no 24-hour ventilation and air-cooling system would be provided, noise arising from the establishment and potential impact to the nearby NSRs should be assessed, and relevant mitigation measures should be provided; and
 - the applicants should confirm whether there will be staff 24 hours on site to manage the dogs and handle complaints.