

Previous S.16 Applications

Rejected Applications

| Application No. | Uses/ Development | Date of Consideration | Rejection Reasons |
|------------------------|--|------------------------------|--------------------------|
| A/NE-MUP/19 | Open Storage of Ceramic Tiles for a temporary period of 12 months | 13.6.1997 (on review) | R1, R3 - R5 |
| A/NE-MUP/54 | Temporary Warehouse for Storage of Ceramic Tiles for a Period of 3 Years | 23.8.2008 (on review) | R2 |

Rejection Reason

- R1 The subject development was not in line with the planning intention of the “Agriculture” zone which was to retain and safeguard good agricultural land for agricultural purposes and to retain arable land with good potential for rehabilitation. There was no strong justification in the application to merit a departure from this planning intention even on a temporary basis.
- R2 The use under application was not in line with the planning intention for “AGR” zone which was intended 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. No strong justifications had been provided in the submission for a departure from the planning intention, even on a temporary basis.
- R3 The subject development was not compatible with the surrounding areas which were predominantly rural in character. In addition, the subject development was incompatible with the adjacent residential uses, including Loi Tung Village.
- R4 The proposed arrangement for on-site car-parking and vehicle-manoeuving area was not satisfactory as it did not meet the standard requirements.
- R5 The approval of the application would set an undesirable precedent for similar applications, the cumulative effect of which would further degrade the environment of the area.

**Similar S.16 Applications for Temporary Shop and Services
in the vicinity of the application site within/partly within the “Agriculture” zone
in the Man Uk Pin Area**

Rejected Application

| Application No. | Uses/ Development | Date of Consideration | Rejection Reasons |
|------------------------|---|------------------------------|--------------------------|
| A/NE-MUP/152 | Proposed Temporary Shop and Services (Selling of Agricultural Products) for a Period of 3 Years | 4.9.2020 | R1 - R3 |

Rejection Reason

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

Recommended Advisory Clauses

- (a) 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;
- (b) to note the comments of the District Lands Officer/North, Lands Department as follows:
 - (i) the lots under application are Old Schedule Lots held under the Block Government Lease (demised for agricultural use) without any guaranteed right of access. The applicant should make his own arrangement for acquiring access, and there is no guarantee that any adjoining Government Land (GL) will be allowed for access of the proposed use;
 - (ii) the existing structures on the Site were erected without approval from his office. The aforesaid structures are not acceptable under the Leases concerned. His office reserves the right to take enforcement actions against the aforesaid structures;
 - (iii) according to the proposed development, portable toilet would be erected on the Site. The applicant should note that any proposed toilet facilities should meet current health requirements;
 - (iv) the GL adjoining the Site is being occupied without consent from his office. The applicant should cease occupation of the GL concerned. His office reserves the right to take enforcement action against the illegal occupation of GL; and
 - (v) if the application is approved, the owner of the lots concerned shall apply to his office for a Short Term Waiver (STW) and Short Term Tenancy (STT) covering all the actual occupation area. 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 and 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 fees as considered appropriate by his office.
- (c) to follow the environmental mitigation measures as set out in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by DEP in order to minimize any possible environmental nuisances;
- (d) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that the Site is in an area where no public sewerage connection is available;
- (e) to note the comments of Chief Engineer/Construction, Water Supplies Department 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 standards;
- (f) to note the comments of the Chief Building Surveyor/ New Territories West, Buildings Department as follows:
 - (i) before any new building works (including containers as temporary buildings) are to be carried out on the Site, the prior approval and consent of the Building Authority (BA)

should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the Buildings Ordinance (BO);

- (ii) the proposed drainage works on the Site shall comply with Building (Standards of Sanitary Fittings, Plumbing, Drainage Works and Latrines) Regulations, prior approval and consent of the BA should be obtained unless they are exempted building works or commenced under the simplified requirement under the Minor Works Control System;
 - (iii) for UBW erected on leased land, enforcement action may be 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 Site under the BO;
 - (iv) any temporary shelters for shop, services or other uses are considered as temporary buildings are subject to the control of Part VII of the Building (Planning) Regulations (B(P)R);
 - (v) the Site shall be provided with means of obtaining access thereto from a street under the B(P)R 5 and emergency vehicular access shall be provided under B(P)R 41D;
 - (vi) if the Site is not abutting on a specified street having a width not less than 4.5m wide, the development intensity shall be determined by the BA under B(P)R 19(3) at the building plan submission stage; and
 - (vii) formal submission under the BO is required for any proposed new works, including any temporary structures. Detailed comments will be given at building plan submission stage;
- (g) to note the comments of the Director of Fire Services as follows:
- (i) in consideration of the design/ nature of the proposed use, the applicant is advised to submit relevant layout plans incorporated with the proposed fire service installations (FSIs) to his satisfaction;
 - (ii) the applicant should be advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy and the location of where the proposed FSI to be installed should be clearly marked on the layout plans;
 - (iii) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans; and
- (h) to note the comments of the Director of Food and Environmental Hygiene (DFEH) that no Food and Environmental Hygiene Department's (FEHD) facilities will be affected and the operation of the business shall not cause any environmental nuisances, obstruction and/or hygiene problems at the Site and its vicinities. The operator of the Site is responsible for the removal and disposal of any trade waste generated from the commercial activities at their expenses. Proper licence / permit issued by FEHD is required if there is any food businesses / catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.