

Previous s.16 Application covering the Application Site

Rejected Application

| | <u>Application No.</u> | <u>Applied Use(s)/Development(s)</u> | <u>Zoning</u> | <u>Date of Consideration (RNTPC/TPB)</u> | <u>Rejected Reason(s)</u> |
|----|-------------------------------|--|-------------------------------|---|----------------------------------|
| 1. | A/YL-HT/414 | Temporary Racing Circuit for a Period of 3 Years | “AGR” and “Green Belt” (“GB”) | 29.7.2005 | 1-3 |
| 2. | A/YL-HT/506 | Proposed Land Filling for Agricultural Use | “AGR” | 28.9.2007 | 3-5 |

Rejected Reason(s):

- 1 Not in line with the planning intention of the "GB" and “AGR” zone. There was no strong justification in the submission for a departure from the planning intentions, even on a temporary basis.
- 2 There was insufficient information in the submission to demonstrate that the proposed development would not have adverse environmental, ecological, traffic, drainage, geotechnical, landscape and visual impacts.
- 3 Approval of the application would set an undesirable precedent for similar applications in the "GB" and "AGR" zones, the cumulative impact of which would result in general degradation of the environment in the area.
- 4 The existing topography and condition of the site rendered the proposed land filling for agricultural use unjustifiable. Besides, the existing materials used to fill the site were construction wastes which were not suitable for cultivation.
- 5 There was no information in the submission to demonstrate that the land filling would not have adverse drainage and landscape impacts on the surrounding areas.

**Similar s.16 Applications for Hobby Farm uses
within the same “AGR” Zone on the Ha Tsuen Fringe OZP**

Approved Application

| | <u>Application No.</u> | <u>Applied Use(s)/Development(s)</u> | <u>Zoning</u> | <u>Date of Consideration (RNTPC)</u> | <u>Approval Conditions</u> |
|----|-------------------------------|--|----------------------|---|-----------------------------------|
| 1. | A/YL-HTF/1090 | Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years | “AGR” | 6.7.2018 | 1-9 |
| 2. | A/YL-HTF/1091 | Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years | “AGR” | 21.9.2018 (Revoked on 21.3.2019) | 1-2, 4-9 |

Approval Condition(s)

- 1 No night time operation.
- 2 No vehicles are allowed to be parked/stored on the site.
- 3 Provision of boundary fence.
- 4 Submission and implementation of tree preservation and landscape proposal.
- 5 Submission and implementation of drainage proposal.
- 6 Maintain drainage facilities.
- 7 Submission and implementation of fire service installations proposal.
- 8 Revocation Clause.
- 9 Reinstatement Clause.

Advisory clauses

- (a) the permission is given to the proposed temporary place of recreation, sports or culture (hobby farm) for a period of 5 years and filling of land under application. It does not condone any other use which currently exists on the Site but not covered by the application. The applicant shall be requested to take immediate action to discontinue such use not covered by the permission;
- (b) to resolve any land issues relating to the development with the concerned owner(s) of the application site;
- (c) to note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) that the Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contain the restriction that no structures are allowed to be erected without the prior approval of the Government. The lot owner(s) of the lot(s) without Short Term Waiver (STW) will need to apply to his office for permitting the structures to be erected or to 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. Application(s) for any of the above will be considered by LandsD acting in the capacity of the 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;
- (d) to note the comments of the Commissioner for Transport (C for T) that sufficient manoeuvring space shall be provided within the Site. The local track leading to the Site is not under Transport Department's (TD) purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site;
- (e) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to the nearby public roads/drains. HyD shall not be responsible for the maintenance of any access connecting the Site and Deep Bay Road;
- (f) to note the comments of the Director of Environmental Protection (DEP) that the design and construction of the septic tank system shall follow Environmental Protection Department's Practice Note for Professional Persons ProPECC 5/93 with certification by an Authorized Person. In addition, the applicant should take note of the potential contamination of soil and water and take necessary measures (e.g. water source including groundwater away from septic systems, sample and analyze water regularly on pathogens, use sandy soil as barrier to potential groundwater pollution, etc.). The applicant is also advised to take reference from 'Good Agricultural Practices for Crop Production-Code of Practice 2: Farm Environment - Water and Soil' issued by the Agriculture, Fisheries and Conservation Department. Nonetheless, in the process of filling of land, the applicant is also reminded that the land should not be filled with construction waste and it is the applicant's responsibility to comply with all relevant environmental legislations during construction and operation of the project. The applicant is also advised to follow the 'Recommended Pollution Control Clauses for Construction Contracts' (https://www.epd.gov.hk/epd/english/environmentinhk/eia_planning/guide_ref/rpc_1.html) to minimize the environmental impacts during the construction stage. The applicant shall follow the relevant mitigation measures and requirements in the latest 'Code of Practice

(COP) on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’;

- (g) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) that the applicant shall review the extent of paved area and explore to use soil/sand ground as alternatives to keep the paved area within the Site to a minimum. Approval of the s.16 application by the Board does not imply approval of the tree works such as pruning, transplanting and/or felling under lease. The applicant should approach relevant authority/government department(s) direct to obtain the necessary approval on tree works where appropriate;
- (h) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that if the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the Building Authority (BA), they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application. For UBW erected on leased land, enforcement action may be taken by 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 building works or UBW on the application site under the BO. 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 BA should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO. 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)R) respectively. 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 B(P)R at the building plan submission stage;
- (i) to note the comments of the Antiquities and Monuments Office, Development Bureau (AMO, DevB) that in view of the location and scope of the proposed temporary place of recreation, sports or culture (hobby farm) and the current condition of the Site, the applicant shall furnish AMO with the details of the land filling, drainage, landscaping and reinstatement works including the works programme for his arrangement of site inspection if necessary; and
- (j) to note the comments of the Director of Fire Services (D of FS) that the applicant should submit relevant layout plans incorporated with the proposed fire services installations (FSIs) to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans. 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.