

Previous s.16 Application Covering the Site

Rejected Application

<u>No.</u>	<u>Application No.</u>	<u>Zoning</u>	<u>Development/Use</u>	<u>Date of Consideration</u>	<u>Reasons for Rejection</u>
1	A/YL-HT/414	Partly "AGR" and partly "GB"	Temporary Racing Circuit for a Period of 3 Years	29.7.2005	(1) to (3)

Reasons for Rejection:

- (1) the proposed development was not in line with the planning intention of the "GB" and "AGR" zones 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 on the application site and the adjacent Deep Bay, Sheung Pak Nai and Ha Pak Nai areas;
- (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.

Advisory clauses

- (a) to note the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD)'s comments that the Site falls entirely within Government Land (GL). No permission is given for occupation of GL (about 1,850m² subject to verification) included in the Site. The act of occupation of GL without Government's prior approval is not allowed. The Site abuts Nim Wan Road and is considered capable for separate alienation. Hence, LandsD would not normally consider application for regularization of unlawful occupation of unleased GL which is capable for reasonable separate alienation even though approval of the Board is given. The Site falls within "Sheung Pak Nai Site of Archaeological Interest" (AM98-0921). The Site does not fall within Shek Kong Airfield Height Restriction Area. The GL within the Site is being illegally occupied. There are unauthorised structures erected on the Site without prior approval from his office. His office reserves the rights to take necessary actions against the unauthorised structure and the illegal occupation of GL.
- (b) to note the comments of the Commissioner for Transport that sufficient manoeuvring spaces shall be provided within the Site;
- (c) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that if the proposed access arrangement is agreed by Transport Department (TD), a proper road connection or run-in/out should be constructed to the satisfaction of TD and HyD. Adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to nearby public roads/drains. HyD shall not be responsible for the maintenance of any access connecting the Site and Nim Wan Road;
- (d) to note the comments of the Director of Environmental Protection that the applicant should note that the design of septic tank and soakaway systems should make reference to EPD's ProPECC PN 5/93 and certified by Authorized Persons. Environmental Protection Department (EPD) is carrying out a consultancy study titled "Agreement No. CE4/2015 (HY) West New Territories (WENT) Landfill – Study of Road Access (Upgrading of Nim Wan Road and Deep Bay Road) – Feasibility Study". The study comprises the exploration and recommendation of upgrading works of the existing Nim Wan Road and Deep Bay road from the WENT Landfill rear entrance at Ha Pak Nai to Lau Fau Shan roundabout. The road upgrading proposal is at feasibility study stage. The study is still ongoing and is expected to be completed by end 2019. There may be interfacing issues between the Site and the works limit of the road upgrading. Since the study is only at feasibility exploration stage, works limit of the road upgrading proposal will be subject to further review;
- (e) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, Plan D) that the applicant is advised that the approval of the landscape proposal under S.16 application does not imply approval of Tree Works such as pruning, transplanting and felling under lease. Tree Works applications should be submitted direct to DLO for approval. The applicant shall be reminded of the importance of general tree care as well as proper tree maintenance. Useful information on general tree maintenance is available for reference in 護養樹木的簡易圖解 (http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf) and the Handbook of Tree Management (Chinese Version: [https://www.greening.gov.hk/tc/tree_care/ Handbook_on_Tree_Management.html](https://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html)) published by the GLTM Section, DEVB;
- (f) to note the comments of Director of Director of Agriculture, Fisheries and Conservation

(DAFC) under the current legislation, 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 his department;

- (g) to note the comments of the Director of Fire Services (D of FS) that 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 of where the proposed FSIs to be installed should be clearly marked on the layout plans. The applicant is 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;
- (h) to note the comments from the Director of Electrical and Mechanical Services (DEMS) that the applicant should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within or in the vicinity of the Site. Based on the cable plans and the relevant drawings obtained, if there is underground cable and/or overhead line within or in the vicinity of the Site, the applicant shall carry out the following measures:
 - (i) for Site within the preferred working corridor of high voltage overhead lines at transmission voltage level 132kV or above as stipulated in the Hong Kong Planning Standards and Guidelines published by the Planning Department, prior consultation and arrangement with CLP Power is necessary;
 - (ii) prior to establishing any structure within the Site, the applicant and/or his contractors shall liaise with the electricity supplier and, if necessary, ask CLP Power to divert the underground cable and/or overhead line away from the vicinity of the structures;
 - (iii) the Electricity Supply Lines (Protection) Regulation and the “code of practice on working near electricity supply lines” established under the regulation shall be observed by the applicant when carrying out works in the vicinity of the electricity supply lines.
- (i) to note the comments of the Antiquities and Monuments Office (AMO) that the applicant is required to inform AMO immediately when antiquities or supposed antiquities, if any, are unearthed within the Site during the construction and operation of the temporary animal establishment;
- (j) 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 such work/operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding. For any waste generated from such activity/operation, the applicant should arrange disposal properly at her own expenses. Proper licence/permit issued by his Department is required if there is any catering service/activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public; and
- (k) to note the comments of the Director of Leisure and Cultural Services (DLCS) that from tree preservation point of view, every possible effort should be made to preserve the existing trees on site and minimize the adverse impact to them during the works period. If trees are inevitably affected, Tree Preservation and removal Proposal should be made to LandsD for

approval in accordance with DEVB TC(W) No. 7/2015.

Detailed Departmental Comments

(a) Comments of the Director of Environmental Protection (DEP):

- (i) According to the applicant, the proposed septic tank and soakaway system is right on where the existing pool is located. Furthermore, the proposed establishment is in close proximity to nearby noise sensitive receivers (NSRs). As the applicant fails to address the above environmental concerns, he could not support the application at this stage.
- (ii) The complaint records in the past 3 years should also be taken into account .

Water quality

- (iii) Considering the stream on the west of the Site and 2 pools/ponds on the east, there is only a very limited area remaining within the Site to locate the septic tank in accordance with ProPECC PN 5/93. The applicant mentioned in para. 1d that the new septic tank and soakaway system will be “right on where the existing pool is located”. However, it is unclear where the existing pool is located. The missing information is needed to evaluate whether septic tank and soakaway system is a feasible means to treat wastewater for the application.

Noise impact

- (iv) As advised in his previous comments, due to close proximity of the applied use to the nearby NSRs, noise arising from the proposed establishment such as dog barking will be noise concern to them.
- (v) It is noted that an environmental assessment was conducted in demonstrating the noise levels at the nearby NSRs being complied with the relevant noise standards. Irregularities are spotted in the assessment as follows:
 - i. The consultant should justify why ASR “B” is adopted for the Site and also verify whether the criteria “ANG-5” is applicable to the applied use in accordance with the HKPSG.
 - ii. The consultant should use proper measurement instrument for recording the existing noise levels during the site visit and provide information to support the validity of the measurement data.
 - iii. The consultant should elaborate why the sound power level of dog barking is assumed to be 90 dB(A).
- (vi) It is understood that dogs will be kept in structure B which is an outdoor kennel while dogs will be exercised and trained structure A “covered open walkway”. It is required to review and propose noise mitigation measures (for example absorptive materials for the walls, ceilings, doors and windows (if any) of the structure as well as screening the kennel and training fields from NSRs by structures and boundary wall (if any), etc.) to avoid noise of annoyance.
- (vii) The consultant is required to clarify whether the three dog kennels and any other structures where the dogs would be kept, have no windows.

- (viii) It is claimed that all ground floor training rooms are noise tight and people outside the units will heard nothing from inside. The consultant is required to specify at which structure the training rooms are located and justify why such rooms are claimed to be noise tight.
- (ix) It is unclear whether there will be 24-hour staff arranged for managing the dogs and handling complaints. The consultant is required to confirm the staff arrangement and also advise the maximum number of dogs which would be kept outside the business hours.