

Previous Application covering the Application Site

Rejected Application

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Condition(s)</u>
1	A/YL-SK/215	Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	26.8.2016	(1), (2), (3)

Rejection Reasons

- (1) the proposed development is not in line with the planning intention of the "Agriculture" ("AGR") zone. No strong planning justification has been given in the submission to justify for a departure from the planning intention, even on a temporary basis
- (2) the proposed development is not compatible with the surroundings which are predominantly rural in character
- (3) the approval of the application would set an undesirable precedent for similar applications within the "AGR" zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area

Similar Applications in the Same “AGR” Zone on the OZP

Approved Applications

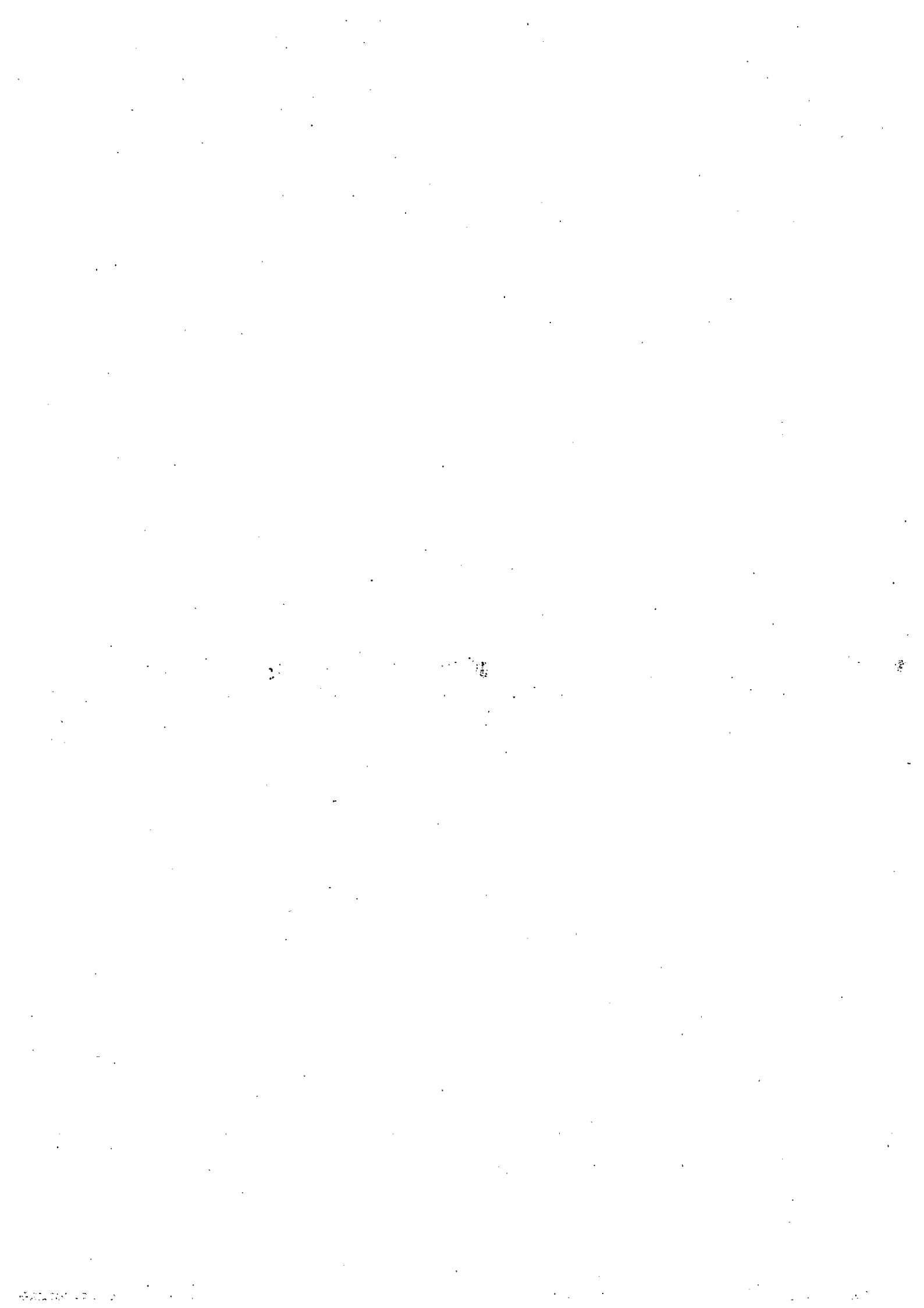
	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Condition(s)</u>
1	A/YL-SK/235	Proposed Temporary Place of Recreational, Sports or Culture (Hobby Farm) for a Period of 3 Years	4.5.2018	(1), (2), (3), (4), (5), (6), (7)
2	A/YL-SK/244	Proposed Temporary Place of Recreational, Sports or Culture (Hobby Farm) for a Period of 3 Years	7.12.2018	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)

Approval Conditions

- (1) Restriction on operation hours
- (2) No public announcement system, portable loudspeaker or any form of audio amplification system is allowed
- (3) Submission and/or implementation of the landscape and/or tree preservation proposals
- (4) Submission of drainage proposal and implementation of drainage facilities
- (5) Submission and implementation of fire service installations proposal
- (6) Revocation of planning approval if conditions not complied with by a given date/at any time during the approval period
- (7) Reinstatement of the site to an amenity area upon expiry of the planning permission
- (8) Restriction on type of vehicles
- (9) No vehicle is allowed to queue back to or reverse onto/from public road at any time
- (10) Submission and implementation of a modification work proposal of the existing public footpath and associated street furniture

Detailed comment of DFEH

- (a) If any Food and Environmental Hygiene Department (FEHD)'s facility is affected by the development, FEHD's prior consent must be obtained. Reprovisioning of the affected facilities by the project proponent up to the satisfaction of FEHD may be required. Besides, the project proponent should provide sufficient amount of additional recurrent cost for management and maintenance of the reprovisioned facilities to FEHD;
- (b) Proper licence / permit issued by his Department is required if there is any food business / catering service / related place of entertainment / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public is involved and the operation of any business should not cause any obstruction;
- i. For the operation of any types of food business, relevant food licences or permits should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132).
 - ii. Any person who desires to keep or use any place of public entertainment for example a theatre and cinema or a place, building, erection or structure, whether temporary or permanent, on one occasion or more, capable of accommodating the public presenting or carrying on public entertainment within Places of Public Entertainment (PPE) Ordinance (Cap. 172) and its subsidiary legislation, such as a concert, opera, ballet, stage performance or other musical, dramatic or theatrical entertainment, cinematograph or laser projection display or an amusement ride and mechanical device which is designed for amusement, a Place of Public Entertainment Licence (or Temporary Place of Public Entertainment Licence) should be obtained from FEHD whatever the general public is admitted with or without payment.
- (c) If the proposal involves any commercial/trading activities, no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.



Advisory Clauses

- (a) resolve any land issues relating to the development with the concerned owner(s) of the Site;
- (b) note DLO/YL, LandsD's comments that the Site comprises an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. The Site is accessible to Shek Kong Airfield Road via Government Land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site. The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within the SKAHRA. The lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications of any of the above will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application 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 the LandsD;
- (c) note CHE/NTW, HyD's comment that the walkway connecting the Site and Nam Hing West Road is not and will not be maintained by HyD;
- (d) note DEP's comments that the applicant is advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by DEP to minimize any potential environmental nuisance. If septic tank and soakaway system will be used in case of unavailability of public sewer, its design and construction shall follow the requirements of Environmental Protection Department's Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department". It is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures;
- (e) note DFEH's comments that if the proposal involves any commercial/trading activities, no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses. If any FEHD's facility is affected by the development, FEHD's prior consent must be obtained. Reprovisioning of the affected facilities by the project proponent up to the satisfaction of FEHD may be required. Besides, the project proponent should provide sufficient amount of additional recurrent cost for management and maintenance of the reprovisioned facilities to FEHD. Proper licence / permit issued by his Department is required if there is any food business / catering service / related place of entertainment / activities regulated by the Director of Food and Environmental Hygiene (DFEH) under the Public Health and Municipal Services Ordinance (Cap. 132)

and other relevant legislation for the public is involved and the operation of any business should not cause any obstruction;

- (i) For the operation of any types of food business, relevant food licences or permits should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132).
 - (ii) Any person who desires to keep or use any place of public entertainment for example a theatre and cinema or a place, building, erection or structure, whether temporary or permanent, on one occasion or more, capable of accommodating the public presenting or carrying on public entertainment within Places of Public Entertainment (PPE) Ordinance (Cap. 172) and its subsidiary legislation, such as a concert, opera, ballet, stage performance or other musical, dramatic or theatrical entertainment, cinematograph or laser projection display or an amusement ride and mechanical device which is designed for amusement, a Place of Public Entertainment Licence (or Temporary Place of Public Entertainment Licence) should be obtained from FEHD whatever the general public is admitted with or without payment;
- (f) note DAFC's comments that there is a nullah to the north of the Site along which some bird species have been recorded. The applicant shall be reminded to avoid disturbing or polluting the nullah, and avoid causing damage to trees along the nullah during operation;
- (g) note CBS/NTW, BD's comments that if the existing structures are erected on leased land without approval of his department (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application. Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO. For UBW erected on leased land, enforcement action may be taken by the BD 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. 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. If 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
- (h) note D of FS's comments that in consideration of the design/nature of the proposal, the applicant is advised to submit relevant layout plans incorporated with the proposed fire service 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 FSI 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.