

**Previous S.16 Applications**

**Rejected Applications**

<b><u>Application No.</u></b>	<b><u>Uses/ Development</u></b>	<b><u>Date of Consideration</u></b>	<b><u>Rejection Reasons</u></b>
A/NE-FTA/98	Temporary Vehicle Repair Workshop for a Period of 3 Years	14.5.2010 (On Review) 15.6.2012 (Appeal Dismissed)	R1 – R3
A/NE-FTA/162	Proposed Temporary Open Storage of Construction Materials and Storage for Construction Materials and Tools with Ancillary Office for a Period of 3 Years	10.3.2017 (On Review)	R4 – R6

**Rejection Reasons:**

- R1        The use under application was not in line with the planning intention of the "AGR" zone for the area which was primarily intended to retain and safeguard good 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. The use under application did not justify a departure from the planning intention even on a temporary basis
- R2        The use under application was not compatible to the surrounding land uses which comprised a number of domestic structures and some fruit trees
- R3        There were a number of domestic structures in the vicinity of the application site, and the use under application would create environmental nuisance to the local residents
- R4        The application was not in line with the planning intention of the "Agriculture" ("AGR") zone for the area which was primarily 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. There was no strong planning justifications in the submission for a departure from such planning intentions, even on a temporary basis

- R5 The application did not comply with the Town Planning Board Guidelines No. 13E on Application for Open Storage and Port Back-up Uses in that there was no previous planning approval granted at the site; there were adverse departmental comments on the application; and the applicants failed to demonstrate that the development would have no adverse environmental and landscape impacts on the surrounding areas
- R6 The approval of the application would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area

**Detailed Comments from Water Supplies Department (WSD)**

- (a) existing water mains will be affected. The applicant is required to either divert or protect the water mains found on Site. If diversion is required, existing water mains inside the Site are needed to be diverted outside the site boundary of the proposed development to lie in Government land. A strip of land of minimum 1.5m in width should be provided for the diversion of existing water mains. The cost of diversion of existing water mains upon request will have to be borne by the grantee/ applicant; and the applicant shall submit all the relevant proposal to WSD for consideration and agreement before the works commence;
  
- (b) If diversion is not required, the following conditions shall apply:
  - (i) existing water mains are affected and no development which requires resiting of water mains will be allowed;
  - (ii) details of site formation works shall be submitted to the Director of Water Supplies for approval prior to commencement of works;
  - (iii) no structures shall be built or materials stored within 1.5 metres from the centre line(s) of water main(s). Free access shall be made available at all times for staff of the Director of Water Supplies or their contractor to carry out construction, inspection, operation, maintenance and repair works;
  - (iv) no trees or shrubs with penetrating roots may be planted within the Water Works Reserve or in the vicinity of the water main(s). No change of existing site condition may be undertaken within the aforesaid area without the prior agreement of the Director of Water Supplies. Rigid root barriers may be required if the clear distance between the proposed tree and the pipe is 2.5m or less, and the barrier must extend below the invert level of the pipe;
  - (v) no planting or obstruction of any kind except turfing shall be permitted within the space of 1.5 metres around the cover of any valve or within a distance of 1m from any hydrant outlet; and
  - (vi) tree planting may be prohibited in the event that the Director of Water Supplies considers that there is any likelihood of damage being caused to water mains.

**Recommended Advisory Clauses**

- (a) to note the comments of DLO/N, LandsD as follows:
- (i) the Site comprises private lots 517RP, 518RP, 521RP, 522, 523RP, 524RP, 525, 526 and 527RP all in D.D. 51 and adjoining Government land (GL). The lots are Old Schedule lots held under Block Government lease (demised for agricultural use) without any guaranteed right of access;
  - (ii) the occupation boundary and application boundary of the Site does not tally. The GL adjoining Lots 524RP, 525, 526 and 527RP in D.D. 51 is being illegally occupied. It is noted that (i) unauthorized structures were erected on Lots 518RP, 521RP, 522, 524RP, 525, 526 and 527RP all in D.D. 51 and (ii) some GL adjoining the Site is being illegally occupied. The unauthorized structures are illegal occupation of GL are not acceptable. He reserves the right to take necessary land control and lease enforcement actions against the above irregularities;
  - (iii) it is noted that the eastern side of the Site encroaches on the boundary of Government Land Permit (GLL) No. 6635 adjoining Lot 526 in D.D. 51. The GLL was issued for erection of chicken run, and is still valid. There, the affected GLL area should be excluded from the Site;
  - (iv) it is noted that the southern side of the Site would affect Government Land Allocation (GLA) No. GLA-TDN 3388, which is allocated to WSD for the purpose of carrying out water main works;
  - (v) it is noted that the western side of the Site would affect the following Government land allocations:
    - GLA-TDN 3427 (STLA) – allocated to DO/N for the purpose of construction of nest letter boxes stand;
    - GLA-TDN 3541 (STLA) – allocated to CEDD for the purpose of landslip preventive measures (LPM) works;
    - GLA-TDN 3568 (STLA) – it is a proposed TGLA for the purpose of temporary storage area of slope preventive maintenance;
    - Short Term Tenancy (STT) No. 435 – issued for putty manufacturing and dwelling, and is still valid; and
  - (vi) if the planning application is approved, the owners of the lots concerned shall apply to his office for a Short Term Waiver (STW) and STT to cover all the proposed structures on Site and regularized the illegal occupation of GL adjoining the Site. 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 will 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;

- (b) to note the comments of C for T that the Site connects Tin Ping Road and Lung Sum Avenue via an unnamed road and local village track, which is not under his department's management. In this regard, the land status of the access leading to the Site should be checked with the lands authority. The management and maintenance responsibilities of the same access should also be clarified with the relevant lands and maintenance authorities accordingly;
- (c) to note the comments of CE/MN, DSD that the Site is in an area where no public sewer connection is available. His comments on the general requirements of a drainage proposal are as follows:
  - (i) surface channel with grating covers should be provided along the site boundary;
  - (ii) a drainage plan should be provided clearly showing the size, levels and routes of the proposed drainage. The details (invert level, gradient, general sections etc.) of the proposed drain/ surface channel, catchpits and the discharge structure shall be provided;
  - (iii) the cover levels of proposed channels should be flush with the existing adjoining ground level;
  - (iv) a catchpit with covers should be provided where there is a change of direction of the channel/drain. The details of the catchpit with covers shall be provided;
  - (v) catchpits with sand trap shall be provided at the outlets of the proposed drainage system. The details of the catchpit with sand trap should be provided;
  - (vi) the applicant should check and ensure that the existing drainage downstream to which the proposed connection will be made have adequate capacity and satisfactory condition to cater for the additional discharge from the captioned site. He should also ensure that the flow from this site will not overload the existing drainage system;
  - (vii) the applicant is reminded that where walls are erected or kerbs are laid along the boundary of the same, peripheral channels should be provided on both sides of the walls or kerbs, and/or adequate openings should be provided at the walls/kerbs to allow existing overland flow passing through the site to be intercepted by the drainage system of the site with details to be agreed by DSD, unless justified not necessary;
  - (viii) if the existing drainage facilities to which the applicant proposed to discharge the storm water from the subject site not maintained by DSD, the applicant should identify the owners of the existing drainage facilities to which the proposed connection will be made and obtain consent from the owners prior to commencement of proposed works;
  - (ix) the applicant is reminded that all existing flow paths as well as the run-off falling onto and passing through the site should be intercepted and disposed of via proper discharge points. The applicant shall also ensure that no works, including any site formation works, shall be carried out as may adversely interfere with the free flow condition of the existing drains, channels and watercourses on or in the vicinity of the subject site any time during or after the works;
  - (x) the proposed drainage works, whether within or outside the site boundary, should be constructed and maintained properly by the applicant and rectify the system if it is

found to be inadequate or ineffective during operation.at his/her own expense;

- (xi) for works to be undertaken outside the lot boundary, the applicant should obtain prior consent and agreement from DLO/N and/or relevant private lot owners;
  - (xii) the applicant should make good all the adjacent affected areas upon the completion of the drainage works;
  - (xiii) the applicant shall allow all time free access for the Government and its agent to conduct site inspection on his completed drainage works;
  - (xiv) the applicant and the successive lot owners shall allow connections from the adjacent lots to the completed drainage works on Government Land when so required; and
  - (xv) photos should be submitted clearly showing the current conditions of the areas and the flow paths around the site and the proposed/existing drainage from the discharge point(s) within the site to the downstream existing water courses;
- (d) to note the comments of DAFC as follows:
- (i) the southern side of the Site is immediately adjacent to a strip of ecological mitigation woodland maintained by her Department for public project "Main Drainage Channels for Fanling, Sheung Shui and Hinderlands", the applicant should be reminded to avoid disturbing any vegetation within the ecological mitigation woodland; and
  - (ii) the Site is in close proximity to River Indus (Ng Tung River), the applicant should be reminded that precautionary measures to avoid any disturbance and pollution to the watercourse nearby should be provided;
- (e) to note the comments of CTP/UD&L, PlanD that for any affected trees within Government land, the applicant should seek prior agreement with relevant tree management department(s) on tree removal application and compensatory tree planting. Such agreement should be included in the application for consideration;
- (f) to note the comments of D of FS as follows:
- (i) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans; and
  - (ii) the arrangement of emergency vehicular access shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Building 2011 which is administered by the Buildings Department;
- (g) to note the comments of CE/C, WSD as follows:
- (i) existing water mains will be affected. The applicant is required to either divert or protect the water mains found on Site. If diversion is required, existing water mains inside the Site are needed to be diverted outside the site boundary of the proposed development to lie in Government land. A strip of land of minimum 1.5m in width should be provided for the diversion of existing water mains. The cost of diversion of existing water mains upon request will have to be borne by the grantee/ applicant; and the applicant shall submit all the relevant proposal to WSD for consideration and

agreement before the works commence;

(ii) If diversion is not required, the following conditions shall apply:

- existing water mains are affected and no development which requires resiting of water mains will be allowed;
- details of site formation works shall be submitted to the Director of Water Supplies for approval prior to commencement of works;
- no structures shall be built or materials stored within 1.5 metres from the centre line(s) of water main(s). Free access shall be made available at all times for staff of the Director of Water Supplies or their contractor to carry out construction, inspection, operation, maintenance and repair works;
- no trees or shrubs with penetrating roots may be planted within the Water Works Reserve or in the vicinity of the water main(s). No change of existing site condition may be undertaken within the aforesaid area without the prior agreement of the Director of Water Supplies. Rigid root barriers may be required if the clear distance between the proposed tree and the pipe is 2.5m or less, and the barrier must extend below the invert level of the pipe;
- no planting or obstruction of any kind except turfing shall be permitted within the space of 1.5 metres around the cover of any valve or within a distance of 1m from any hydrant outlet; and
- tree planting may be prohibited in the event that the Director of Water Supplies considers that there is any likelihood of damage being caused to water mains; and

(h) to note the comments of CBS/NTW, BD as follows:

- (i) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent from the BD should be obtained, otherwise they are unauthorised building works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO);
- (ii) if the proposed use under application is subject to the issue of a licence, any existing structures on Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority;
- (iii) 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;
- (iv) 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
- (v) detailed comments under the BO will be provided at the building plan submission stage.