

Previous S.16 Applications

Rejected Applications

Application No.	Uses/ Development	Date of Consideration	Rejection Reasons
A/NE-FTA/159	Proposed Temporary Parking of Container Tractors and Trailers for Sale with Ancillary Office for a Period of 3 Years	14.10.2016	R1 - R4
A/NE-FTA/174	Proposed Temporary Vehicle Repair Workshop for Medium Goods Vehicle, Heavy Goods Vehicle, Coach and Container Tractor for a Period of 3 Years	28.7.2017	R4 - R6
A/NE-FTA/184	Proposed Temporary Public Vehicle Park for a Period of 3 Years	25.1.2019 (On Review)	R4 - R5, R7

Rejection Reasons

- R1 The proposed development 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 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 justification in the submission for a departure from such planning intention, even on a temporary basis.
- R2 The application did not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No.13E) in that the proposed development was not compatible with the surrounding land uses which were predominantly rural in character; there was no previous planning approval granted for the site; and there were adverse departmental comments on the application.
- R3 The applicant failed to demonstrate that the proposed development would not cause adverse environmental and landscape impacts on the surrounding areas.
- R4 The approval of the application would set an undesirable precedent for similar applications within the same “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

- R5 The proposed temporary use under application was not in line with the planning intention of the “Agriculture” (“AGR”) zone for the Fu Tei Au and Sha Ling area, 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.
- R6 The application did not comply with the Town Planning Board Guidelines No. 13E in that there was no previous approval of open storage and port back-up uses granted for the site and no exceptional circumstance to justify sympathetic consideration of the application; there were adverse departmental comments on the application; and the applicant failed to demonstrate that the proposed development would not cause adverse traffic, environmental and landscape impacts on the surrounding areas.
- R7 The applicant failed to demonstrate that the proposed development would not cause adverse environmental impact on the surrounding areas.

**Similar S.16 Applications for Recreation, Sports or Culture (Hobby Farm) within/partly within
the “Agriculture” zone in the vicinity of the Site
in the Fu Tei Au and Sha Ling Area**

Approved Application

Application No.	Uses/ Development	Date of Consideration	Approval Conditions
A/NE-FTA/193	Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years	13.12.2019	A1 - A7

Approval Conditions:

- A1 No operation between 5:00 p.m. and 10:00 a.m. was allowed
- A2 No public announcement system and loud speaker was allowed to be used
- A3 The submission of a drainage proposal
- A4 The provision of drainage facilities
- A5 The submission and implementation of proposals for fire service installations and water supplies for firefighting
- A6 Revocation clause
- A7 Reinstatement clause

Recommended Advisory Clauses

- (a) to note the following comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):
 - (i) the application lots are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guaranteed right of access. The applicant should make its own arrangement for acquiring access, and there no guarantee that any adjoining Government land (GL) will be allowed for the vehicular access of the proposed use;
 - (ii) the Site includes a piece of GL (**Plan A-2**). The applicant should not occupy the GL concerned without approval from his office;
 - (iii) the proposed vehicular access to the Site involves a few private lots of which the applicant is not the owner. The applicant should seek consent to use the concerned lots for access purpose from the concerned owners; and
 - (iv) should the application be approved, the owners of the lots concerned shall apply to his office for a Short Term Waiver (STW) and Short Term Tenancy (STT) and/or Letter of Approval (LoA) covering all the actual occupation area. The applications for STW, STT and/or LoA will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW, STT and/or LoA 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;
- (b) to note the comments of the Commissioner for Transport that the local track leading to the Site is not managed by TD. The land status, management and maintenance responsibilities of the local track should be clarified with the relevant lands and maintenance authorities accordingly;
- (c) to note the following comments of the Chief Highway Engineer/New Territories East, Highways Department:
 - (i) the section of Man Kam To Road adjacent to the Site is under HyD's maintenance purview. However, the vehicular access leading from Man Kam To Road to the Site falls on unallocated Government land (**Plan A-2**) which is outside HyD's maintenance purview. The applicant is required to sort out the maintenance responsibility of the affected unallocated Government land with DLO/N; and
 - (ii) adequate drainage measures should be provided to prevent surface water running from the Site to the adjacent public road;
- (d) to note the following comments of the Director of Environmental Protection:
 - (i) the applicant is advised to follow EPD's latest "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites (CoP)";
 - (ii) the applicant is advised to strictly observe all relevant pollution control ordinances,

particularly on waste management and disposal and water pollution, follow relevant measures given in the EPD's latest CoP, and put in place necessary precautionary/pollution control measures to prevent any pollution to the nearby sensitive receivers as a result of the operational and construction activities. Best management practice should be adopted to avoid refuse and other pollution, including pesticides to be used in the hobby farming, from entering the surface runoff and any watercourse/nullah. Particular attention should be paid on measures to prevent fly-tipping/unauthorized landfilling activities during construction and operation stages; and

- (iii) there is no existing public sewer in the vicinity of the Site. The applicant shall have to provide his own effective sewage treatment and disposal measures to cater for any sewage arising from the operation of the application. If septic tank and soakaway is proposed, its design and construction should follow the requirements of ProPECC 5/93. The Percolation Test and Minimum Clearance requirements stated in ProPECC PN5/93 should be fully complied with and duly certified by consulting engineer / Authorised Person (AP);
- (e) to note the following comments of the Chief Building Surveyor/New Territories West, Buildings Department:
- (i) before any new building works are to be carried out on the Site, the prior approval and consent of the Building Authority (BA) should be obtained unless they are exempted building works or commenced under the simplified requirement under the Minor Works Control System. Otherwise they are Unauthorized Buildings 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) for UBW erected on leased land, enforcement action may be taken by 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;
 - (iii) any temporary shelters or converted containers considered as temporary buildings are subject to the control of Part VII of the Building (Planning) Regulations (B(P)Rs);
 - (iv) 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 B(P)Rs;
 - (v) if the Site does not abut on a specified street having a width 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
 - (vi) formal submission under the BO is required for any proposed new works, including any temporary structures. Detailed comments under BO will be provided at the building plan submission stage; and
- (f) to note the following comments of the Director of Fire Services:
- (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; and
- (iii) if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire safety requirements will be formulated upon receipt of formal submission of the general building plans.