

Previous S.16 Applications

Approved Applications

Application No.	Uses/ Development	Date of Consideration	Approval Conditions
A/NE-LYT/31 ¹	Retail Shop and Storage of Building Materials	25.8.1995 (On review)	A1 - A3
A/NE-LYT/138 ¹	Retail Shop and Ancillary Storage of Building Materials	3.10.1997	A2, A4 & A5
A/NE-LYT/189 ²	Retail Shop and Storage of Building Materials	3.12.1999	A6 & A7
A/NE-LYT/303	Temporary Retail Shop and Storage of Building Materials for a Period of 3 Years	27.5.2005 (Revoked on 27.2.2006)	A7 - A10
A/NE-LYT/345	Temporary Retail Shop and Storage of Building Materials for a Period of 3 Years	1.12.2006	A2, A7 - A12
A/NE-LYT/388	Temporary Retail Shop and Storage of Building Materials and Metal Wares for 3 Years	18.9.2009	A2, A7 - A9, A11 - A17
A/NE-LYT/490	Renewal of Planning Approval for Temporary Retail Shop (Building Materials and Metalwares) under Application No. A/NE-LYT/388 for a Period of 3 Years	7.9.2012	A7, A8, A11, A18 - A24
A/NE-LYT/576	Renewal of Planning Approval for Temporary Retail Shop (Building Materials and Metalwares) for a Period of 3 Years	4.9.2015	A7, A8, A11, A19, A20, A23 - A27

Remarks

*1: Approved on a temporary basis for a period of 2 years

*2: Approved on a temporary basis for a period of 3 years

Approval Conditions:

- A1 The provision of manoeuvring space for goods vehicles
- A2 The provision of drainage facilities
- A3 The provision of landscape planting along the entire boundary of the site
- A4 The provision of parking spaces, loading/unloading area and vehicle manoeuvring spaces

- A5 The provision of landscape treatment
- A6 The submission and implementation of landscape proposals
- A7 Revocation clause
- A8 The setback of the eastern boundary of the site to provide clearance of 3.5m from the crest of the Kwan Tei River embankment
- A9 The submission of the tree preservation and landscaping proposals
- A10 The implementation of the landscaping proposals
- A11 No night-time operation between 9:00 p.m. and 7:00 a.m. was allowed
- A12 The submission of drainage proposals
- A13 The implementation of the accepted environmental mitigation measures as stated in the submitted Environmental Impact Assessment report
- A14 The implementation of the tree preservation and landscaping proposals
- A15 The design of vehicular access, car parking and loading/unloading spaces and manoeuvring paths
- A16 The provision of vehicular access, car parking and loading/unloading spaces and manoeuvring paths
- A17 Reinstatement clause
- A18 The removal of the temporary structure protruding beyond the application site boundary
- A19 The environmental mitigation measures implemented should be properly maintained on the application site
- A20 The vehicular access, car parking and loading/unloading spaces and manoeuvring paths implemented should be properly maintained on the application site
- A21 The submission and implementation of tree preservation and landscape proposals
- A22 The submission and implementation of a drainage proposal
- A23 The submission of proposals for fire service installations and water supplies for fire-fighting
- A24 The provision of fire service installations and water supplies for fire-fighting
- A25 The existing drainage facilities implemented on site should be maintained
- A26 The existing trees and landscape plantings implemented on site should be maintained
- A27 The submission of a condition record of the existing drainage facilities

Rejected Applications

Application No.	Uses/ Development	Date of Consideration	Rejection Reasons
A/DPA/NE-LYT/8	Retail Shops for Building Materials	20.3.1992	R1 - R7
A/DPA/NE-LYT/34	Two Two-storey Retail Shops for Building Materials	9.10.1992	R8 - R14
A/NE-LYT/14	Retail Shop for Building Materials	18.11.1994	R15 - R19
A/NE-LYT/141	Temporary Open Storage of Building Materials for a Period of 12 Months	3.10.1997	R20 - R23
A/NE-LYT/168	Temporary Open Storage of Building Materials for a Period of 12 Months	11.12.1998	R24 - R27
A/NE-LYT/174	Temporary Open Storage of Building Materials for a Period of 12 Months	11.6.1999	R24, R25, R27 & R28
A/NE-LYT/350	Temporary Open Storage of Building Materials for a Period of 3 Years	2.2.2007	R27 & R29

Rejection Reasons:

- R1 Part of the proposed development fell within a "Village Type Development" zone and was not in compliance with the planning intention for this zone which was for small house development for indigenous villagers.
- R2 The remaining part of the proposed development fell within an "Unspecified Use" area and was not in compliance with the planning intention for the area which was to encourage in-situ reconstruction of temporary structures with permanent materials with a view to improving the local environment.
- R3 The proposed development would bring about adverse impact to the nearby village in terms of dust nuisance and increased vehicular traffic.
- R4 The proposed retail shops could be accommodated in on-domestic buildings elsewhere and no justification for their location at the application site had been included in the submission.
- R5 The site under application was liable to flooding and no drainage facilities had been proposed in the submission.
- R6 No provision of sewage treatment and disposal facilities had been proposed in the submission.

- R7 No provision of vehicular access to the site had been proposed in the submission.
- R8 The proposed development was not in line with the planning intention for the "Unspecified Use" area which was to encourage in-situ reconstruction of temporary structures with permanent materials with a view to improving the local environment.
- R9 The proposed development would bring about adverse impact in the form of dust nuisance, flooding risk and increase in vehicular traffic to the nearby village.
- R10 The retail shops could be accommodated in non-domestic buildings elsewhere and no justifications for the proposed development at the application site had been included in the submission.
- R11 The application site was liable to flooding but no drainage facilities had been proposed in the submission.
- R12 No proposals on sewage treatment and disposal facilities had been included in the submission.
- R13 No proposals on vehicular access to and parking arrangement in the application site had been included in the submission. The provision of additional ingress/egress points on Sha Tau Kok Road might pose hazards to the road users along the road.
- R14 No proposals on landscaping had been included in the submission.
- R15 The proposed development was not compatible with the planning intention for the "Village Type Development" zone which was to reserve land for small house development and village expansion.
- R16 The proposed development intensity was excessive and the development of such scale was incompatible with the character of the village setting.
- R17 The sightline at the proposed ingress/egress point from Sha Tau Kok Road would be severely affected by the design of the road widening project.
- R18 The application site was liable to flooding as it was located less than 15m from the nearby Kwan Tei River but no drainage proposal had been included in the submission.
- R19 Part of the application site would be used for storage of sand and gravel and no mitigation measures to minimize dust nuisance had been proposed in the application.
- R20 The proposed development was not in line with the planning intention of the "Agriculture" ("AGR") zone for the area, which was to retain and safeguard good agricultural land for agricultural purposes and to retain fallow arable land with good potential for rehabilitation. No strong justifications had been submitted for a departure from the planning intention for the area even on a temporary basis.
- R21 The proposed development was not compatible with the residential settlement and schools in the nearby area.

- R22 The application site fell within a flood fringe area and no detailed proposals on the provision of drainage facilities had been submitted.
- R23 The approval of the subject application would set an undesirable precedent for similar applications, which would result in a general degradation of the environment in the area.
- R24 The development was not in line with the planning intention of the "Agriculture" ("AGR") zone which was to safeguard agricultural land for agricultural purposes, to retain fallow arable land with good potential for rehabilitation and to encourage the re-cultivation of good arable land. No strong justifications had been provided in the submission for a departure from such planning intention, even on a temporary basis.
- R25 The use under application was incompatible with the residential settlement and school in the nearby area.
- R26 The application site fell within the flood fringe area and the drainage proposal submitted by the applicant was considered inadequate.
- R27 The approval of the application would set an undesirable precedent for other similar applications. The cumulative impact of approving such similar applications would result in a general degradation to the environment of the area.
- R28 The application site fell within the flood fringe area and no information had been provided to demonstrate that the use under application would not impose constraints upon the "Rural Drainage and Rehabilitation Scheme".
- R29 The development was not in line with Town Planning Board Guidelines No.13D for Application for Open Storage and Port Back-up Uses in that no previous planning approval had been given to the application site and there were no technical assessments/proposals submitted to demonstrate that the development would not generate adverse environmental impact on the surrounding area.

Recommended Advisory Clauses

- (a) prior planning permission should have been obtained before commencing the applied use at the Site;
- (b) to note the comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD) as follows:
 - (i) the actual occupation area is larger than the Site. Portion of Lot 579 RP outside the Site and some portions of the adjoining Lots 577 and 581 S.I in D.D. 83 have also been occupied. Moreover, there are unauthorised structures erected on the lots concerned, the adjoining Government land concerned and the adjoining Lots 577 and 581 S.I in D.D.83 without prior approval from his office. The total built-over area of the aforesaid structures is larger than both the maximum permitted site coverage stipulated in Short Term Wavier (STW) No. 1110. The said structures are not acceptable under the concerned Lease and STW No. 1110. His office may take enforcement actions against the irregularities; and
 - (ii) the owners of the lots concerned shall apply to his office for a STW to cover all the actual occupation area including Lots 577, 578 RP and 581 S.I in D.D. 83 and a Short Term Tenancy (STT) for the occupied Government land to regularize the irregularities. The applications will be considered by the Government in its landlord's capacity and there is no guarantee that they will be approved. If the applications 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;
- (c) to note the comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD) as follows:
 - (i) the section of Sha Tau Kok Road – Lung Yeuk Tau adjacent to the Site is under HyD's maintenance purview. However, part of the area between the footpath of Sha Tau Kok Road – Lung Yeuk Tau and the Site is on unallocated Government land which is outside HyD's maintenance purview. The maintenance responsibility of the this part of area should be sorted out with DLO/N, LandsD; and
 - (ii) Excavation Permit is required for any excavation works on public roads under HyD's jurisdiction;
- (d) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department as follows:
 - (i) the approval of the application does not imply approval of tree works such as pruning, transplanting and felling under lease. Tree removal applications should be submitted direct to DLO/N, LandsD for approval; and
 - (ii) useful information published by the Greening, Landscape & Tree Management Section, Development Bureau on general tree maintenance and tree risk management is available for reference in the following links:
 - Pictorial Guide for Tree Maintenance:

https://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf;

- Handbook on Tree Management:
https://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html;
- Tree Risk Assessment and Management Arrangement:
https://www.greening.gov.hk/tc/tree_care/tra_arrangements.html;
- Minimising Tree Risks:
https://www.greening.gov.hk/filemanager/content/pdf/tree_care/Chinese_Leaflet_Big_font_size_v1_2012_03_29.pdf; and
- Pictorial Guide for Tree Maintenance to Reduce Tree Risks:
[https://www.greening.gov.hk/filemanager/content/pdf/tree_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk\(eng\).pdf](https://www.greening.gov.hk/filemanager/content/pdf/tree_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk(eng).pdf);

(e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department as follows:

- (i) the applicant shall make sure that rain water falling on the Site shall be collected by a drainage system and conveyed to a proper discharge point(s). The applicant shall maintain such system properly and rectify the system if it is found to be inadequate or ineffective during operation at this own cost. The applicant shall also be liable for and shall indemnify Government against claims and demands arising out of damage or nuisance caused by a failure of the system; and
- (ii) the Site is in an area where no public sewerage connection is available;

(f) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that for provision of water supply to the development, the applicant may need to extend the inside services to the nearest suitable Government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the side services within the private lots to WSD's standards;

(g) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) as follows:

- (i) if the existing structure(s) (including temporary structure (s) are erected on leased land without approval of the BD (not being a New Territories Exempted House) (NTEH), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application; and
- (ii) for unauthorized building works (UBW) erected on leased land, enforcement action may be taken by 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 application site under the BO.

(h) to note the comments of the Director of Fire Services as follows:

- (i) emergency vehicular access arrangement shall comply with Section 6, Part D of the

Code of Practice for Fire Safety in Buildings 2011 administered by BD; and

- (ii) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans; and
- (iii) his comments on the submitted proposals for fire service installations and water supplies for firefighting are as following:
 - (a) regarding the automatic sprinkler system, direct line to Fire Services Communications Centre (FSCC) is required for Ordinary Hazard (OH)3 hazard group with 90m³ sprinkler tank;
 - (b) dimensions of structure shall be included for assessing the hose reel coverage; and
 - (c) the storage criteria of the shed Structure B (with 2 sides open), i.e. for storage of non-combustible materials shall be strictly adhered to; and
- (i) to follow the environmental mitigation measures as set out in the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the DEP in order to minimise any possible environmental nuisances.