

**Similar s.16 Applications within area shown as 'Road'
on Ting Kok Outline Zoning Plan**

Rejected Application

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-TK/542*	Proposed Filling of land (up to 1.6m) for Agricultural Use	27/3/2015	R1 – R4

* The application site falls within an area partly zoned "Agriculture" ("AGR") and partly shown as 'Road'.

Rejection Reasons

- R1. The planning intention of the "AGR" zone was primarily 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 for land filling of 1.6m high for agricultural purpose.
- R2. The land filling fell partly within an area shown as 'Road' on the Outline Zoning Plan and would affect the future road works.
- R3. The applicant failed to demonstrate that the filling of land would not cause adverse drainage, landscape and geotechnical impacts on the surrounding area.
- R4. Approval of the application would set an undesirable precedent for other similar applications within the "AGR" zone. The cumulative impact of approving such applications would result in a general degradation of the environment of the area.

Advisory Comments of
Chief Building Surveyor/New Territories West, Buildings Department

- (i) if the existing structures are erected on leased land without approval of the Buildings Department (BD), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application;
- (ii) before any new building works including any temporary structures, are to be carried out on the Site, prior approval and consent of the Building's Department (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;
- (iii) 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;
- (iv) in connection with (ii) above, 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 respectively;
- (v) if the Site does not abut on a specified street having a width not less than 4.5m, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation 19(3) at building plan submission stage; and
- (vi) detailed comments under the BO will be provided at the building plan submission stage.

Recommended Advisory Clauses

- (a) prior planning permission should have been obtained before commencing the applied use at the application site (the Site);
- (b) to note the comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) that:
 - (i) the lot owner is required to submit a Short Term Waiver (STW) application to LandsD should he wish to erect any structures on the lot. However, there is no guarantee at this stage that the STW application would be approved. If the application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD including the payment of waiver fee and administrative fee as considered appropriate. STW application for new purely domestic structure will not normally be entertained; and
 - (ii) there is no guarantee to the grant of a right of way to the Site or approval of the Emergency Vehicular Access thereto;
- (c) to note the comments of the Director of Environmental Protection (DEP) that in view of the potential sewage generation from the domestic usage, the applicant shall be reminded that if septic tank and soakaway (ST/SA) system is proposed, Professional Persons Environmental Consultative Committee Practice Notes (ProPECC PN) 5/93 "Drainage Plans Subject to Comment by the Environmental Protection Department" should be followed and duly certified by an Authorized Person (AP), including the percolation test results. The applicant should also follow ProPECC PN 1/94 "Construction Site Drainage" to prevent water quality impact to the Ting Kok Site of Special Scientific Interest (SSSI) during construction phase;
- (d) to note the comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD) that for construction of the run-in/out, the applicant is required to apply for an excavation permit from HyD;
- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that:
 - (i) there is no existing DSD maintained public drain available for connection in the area. The applicant should have its own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from surrounding of the Site, e.g. surface channel of sufficient size along the perimeter of the Site; sufficient openings should be provided at the bottom of the boundary wall/fence to allow surface runoff to pass through the Site if any boundary wall/fence are to be erected. Any existing flow path affected should be re-provided. The applicant should neither obstruct overland flow nor adversely affect the existing natural streams, village drains, ditches and the adjacent areas. The applicant is required to maintain the drainage systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by

failure of the systems;

- (ii) public sewers are not available near the Site; and
 - (iii) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant lot owners should be sought;
- (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 inside services within the private lots to WSD's standards;
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- (g) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) under the Buildings Ordinance at **Appendix III**.
- (h) to note the comments of the Director of Fire Services (D of FS) that:
- (i) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans or referral from relevant licensing authority; and
 - (ii) the emergency vehicular access (EVA) provision in the Site shall comply with the standard as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 under the Building (Planning) Regulation 41D which is administered by the Buildings Department;
- (i) to note the comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) that regarding the proposed on-farm domestic structure and the ancillary vehicular access road, the applicant should submit necessary geotechnical submissions for the site formation works to the relevant authority; and
- (j) to note the comments of the Director of Electrical and Mechanical Services (DEMS) that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the mentioned application 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 and/or in the vicinity of the concerned site. The applicant should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines.