

Previous Applications covering the Application Site

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-TK/147	Proposed Temporary Barbecue Site for a Period of 2 Years	22/11/2002 (Approved for 2 years up to 22/11/2004)	A1 – A2
A/NE-TK/228	Temporary Barbecue Site for a Period of 3 Years	09/03/2007 (Approved for 2 years up to 09/03/2009)	A2 – A7 (Revoked on 09/09/2007)
A/NE-TK/257	Temporary Barbecue Site for a Period of 3 Years	18/07/2008 (Approved for 2 years up to 18/07 /2010)	A2 – A7
A/NE-TK/316	Temporary Barbecue Site for a Period of 3 Years	27/08/2010 (Approved for 2 years up to 27/08/2012)	A2, A3, A5, A7 - A9 (Revoked on 27/05/2011)
A/NE-TK/427	Temporary Barbecue Site for a Period of 3 Years	05/04/2013 (Approved for 2 years up to 05/04/2015)	A1, A2, A5, A7, A9 - A11

Approval Conditions

- A1. the submission and implementation of vehicular access, parking and loading/unloading proposals within specified periods from the date of planning approval
- A2. upon expiry of the planning permission, reinstatement of the application site to an amenity area
- A3. no night-time operation after 11:00 p.m. was allowed on the site during the planning approval period
- A4. the submission and implementation of vehicular access and parking proposals within specified periods from the date of planning approval
- A5. the submission and implementation of drainage proposals within specified periods from the date of planning approval
- A6. the submission and implementation of landscape proposals, including tree preservation proposal, within specified periods from the date of planning approval
- A7. the provision of precautionary/protective measures within a specified period from the date of planning approval to ensure no adverse impacts on the nearby "Coastal Protection Area" zone and Ting Kok Site of Special Scientific Interest
- A8. the existing vehicular access, parking, loading/unloading, trees and landscape plantings on the site should be maintained at all times during the planning approval period

- A9. The submission and implementation of proposals for water supplies for fire-fighting and fire service installations within specified periods from the date of planning approval
- A10. no night-time operation between 11:00 p.m. and 8:00 a.m. was allowed on the site during the planning approval period
- A11. the submission and implementation of tree preservation proposal within specified periods from the date of planning approval

Rejected Application

Application No.	Proposed Development	Date of Consideration	Rejected Reasons
A/NE-TK/207	Proposed Temporary Barbecue Site for a Period of 3 Years	21/07/2006	R1-R2

Rejected Reasons

- R1. There was insufficient information in the submission to demonstrate that the development would not cause adverse impact on the mangrove habitat in the Ting Kok Site of Special Scientific Interest to the south of the application site.
- R2. The approval of the application would set an undesirable precedent for other similar applications within the "Agriculture" zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.

**Similar s. 16 Applications within the “AGR” Zone
on the Ting Kok Outline Zoning Plan**

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-TK/208	Proposed Temporary Barbecue Site and Car Park for a Period of 3 Years	16/06/2006 (Approved for 3 years up to 16/6/2009)	A1 – A5 (Revoked on 16/12/2006)
A/NE-TK/235	Temporary Barbecue Site and Car Park for a period of 3 years	27/07/2007 (Approved for 2 years up to 27/07/2009)	A1 – A5
A/NE-TK/265	Temporary Barbecue Site and Ancillary Car park for a Period of 3 Years	07/11/2008 (Approved for 2 years up to 07/11/2010)	A1 – A6
A/NE-TK/281	Renewal of Planning Approval for Temporary Barbecue Site and Car Park for a period of 2 years	24/07/2009 (Approved for 2 years up to 27/07/2011)	A1, A5, A7, A8
A/NE-TK/360	Renewal of Planning Approval for Temporary Barbecue Site and Car Park for a period of 2 years	17/06/2011 (Approved for 2 years up to 27/07/2013)	A1, A5, A7
A/NE-TK/456	Renewal of Planning Approval for Temporary Barbecue Site and Car Park for a period of 2 years	19/07/2013 (Approved for 2 years up to 27/07/2015)	A1, A5, A7
A/NE-TK/494	Temporary Barbecue Site and Car Park for a Period of 3 Years	25/04/2014 (Approved for 2 years up to 25/04/2016)	A1, A3, A5, A8-A10 (Revoked on 25/04/2015)
A/NE-TK/565	Temporary Barbecue Site and Car Park for a Period of 3 Years	20/11/2015 (Approved for 2 years up to 20/11/2017)	A1, A4, A5, A8, A11 (Revoked on 20/11/2016)

Approval Conditions

- A1. no night-time operation after 11:00 p.m. was allowed on the site during the planning approval period
- A2. the submission and implementation of vehicular access and parking proposals within specified periods from the date of planning approval
- A3. the submission and implementation of drainage proposals within specified periods from the date of planning approval
- A4. the submission and implementation of landscape proposals, including tree preservation proposal, within specified periods from the date of planning approval
- A5. upon the expiry of the planning permission, the reinstatement of the application site to an amenity area
- A6. the existing vehicular access, parking, loading/unloading, trees and landscape plantings on the site should be maintained at all times during the planning approval period
- A7. the submission and implementation of proposals for water supplies for fire-fighting and fire service installations within specified periods from the date of planning approval
- A8. no pond filling activities was allowed on the site
- A9. the existing vehicular access and parking facilities, and the existing trees and landscape plantings on the site shall be maintained at all times during the planning approval period.
- A10. the submission and implementation of water main diversion proposal within specified periods from the date of the planning approval
- A11. the existing vehicular access and parking and drainage facilities on the site shall be maintained at all times during the planning approval period

Advisory Comments from Government Departments

- (a) Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
 - (i) no material (e.g. tyres, buckets and garbage) shall be stacked within 1m from tree trunks or root area; and
 - (ii) material (e.g. decorative lighting) is not recommended to be tied on trees. In case if it is necessary, regular adjustment should be arranged to cope with tree growth.
- (b) Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
 - (i) if the existing structures are erected on leased land without approval of the BD 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;
 - (ii) before any new building works including temporary structures are to be carried out on the Site, prior approval and consent of BA should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with BO;
 - (iii) 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;
 - (iv) if the proposed use under application is subject to the issue of a licence, the applicant should be reminded that any existing structures on the 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;
 - (v) formal submission under the BO is required for any proposed new works, including any temporary structures; and
 - (vi) in connection with (v) above, the Site shall be provided with means of obtaining access thereto from a street under the Building (Planning) Regulation 5 and emergency vehicular access shall be provided under the Building (Planning) Regulation 41D. If the Site is not abutting on a specified street having a width not less than 4.5m, the development intensity shall be determined by the BA under Building (Planning) Regulation 19(3) 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;
- (b) to resolve any land issue relating to the development with the concerned owners of the Site;
- (c) to note the comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) that:
 - (i) there is no guarantee of right of way to the Site;
 - (ii) no structure shall be allowed to be erected within the Site without prior approval from LandsD; and
 - (iii) the relevant registered owners of the lots should apply for Short Term Waiver (STW) to regularize the unauthorized structures erected or to be erected on site. Such application will be considered by LandsD acting in the capacity as landlord at its sole discretion. Nevertheless, there is no guarantee that such approval will be given. If such STW application is approved, it will be subject to such terms and conditions, including among others the payment of fees, as may be imposed by LandsD;
- (d) to note the comments of the Commissioner for Transport (C for T) that the land status of the vehicular access should be clarified with the relevant lands authorities and permission to use should be obtained accordingly in order to avoid any potential dispute and complaints;
- (e) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) that:
 - (i) no material (e.g. tyres, buckets and garbage) shall be stacked within 1m from tree trunks or root area; and
 - (ii) material (e.g. decorative lighting) is not recommended to be tied on trees. In case if it is necessary, regular adjustment should be arranged to cope with tree growth;
- (f) 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 drains available for connection in the vicinity of this area;
 - (ii) the proposed development 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 proposed development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas. The applicant/owner is required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The

applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;

- (iii) for works to be undertaken outside the lot boundary, prior consent and agreement from DLO/TP and/or relevant private lot owners should be sought;
 - (iv) public sewerage connection is available in the vicinity of the Site; and
 - (v) the applicant should follow the established procedures and requirements for connecting sewers from the Site to the public sewerage system. A connection proposal should be submitted to DSD via DLO/TP for approval beforehand. Moreover, the sewerage connection will be subject to DSD's technical audit, for which an audit fee will be charged. The relevant guidelines can be downloaded from the DSD's web site at <http://www.dsd.gov.hk>;
- (g) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that:
- (i) if the existing structures are erected on leased land without approval of the BD not being a New Territories Exempted House, they are unauthorized under Building Ordinance (BO) and should not be designated for any approved use under the application;
 - (ii) before any new building works including temporary structures are to be carried out on the Site, prior approval and consent of Building Authority (BA) should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with BO;
 - (iii) 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;
 - (iv) if the proposed use under application is subject to the issue of a licence, any existing structures on the 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;
 - (v) formal submission under the BO is required for any proposed new works, including any temporary structures; and
 - (vi) in connection with (v) above, the Site shall be provided with means of obtaining access thereto from a street under the Building (Planning) Regulation 5 and emergency vehicular access shall be provided under the Building (Planning) Regulation 41D. If the Site is not abutting on a specified street having a width not less than 4.5m, the development intensity shall be determined by the BA under Building (Planning) Regulation 19(3) at the building plan submission stage;
- (h) to note the comments of the Director of Agriculture, Fisheries and Conservation (DAFC) that the Site is located approximately 30m to the north of Ting Kok Site of Special Scientific Interest (SSSI). Chain-link fence separating the Site and the SSSI should be in place, and banners reminding the public of nature protection should be set up to minimise human disturbance to the SSSI;

- (i) to note the comments of the Director of Fire Services (D of FS) that:
 - (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;
- (j) 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;
- (k) to note the comments of the Director of Food and Environmental Hygiene (DFEH) that:
 - (i) for any premises intended to be used for food business (e.g. a restaurant, a food factory, a fresh provision shop), a food business licence from the Food and Environmental Hygiene Department (FEHD) in accordance with the Public Health and Municipal Services Ordinance (Cap. 132) shall be obtained. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements;
 - (ii) depending on the mode of operation, generally there are three types of food business licence that the operator of an outdoor barbecue site may apply for under the Food Business Regulation (the Regulation):
 - if food is sold to customers for consumption on the premises, a restaurant licence should be obtained;
 - if food is only prepared for sale for consumption off the premises, a food factory licence should be obtained; and
 - if fresh, chilled or frozen meat is sold, a fresh provision shop licence should be obtained;
 - (iii) the operator of the barbecue site should take measures to prevent the existence of nuisance such as smoke nuisance and accumulation of refuse at the Site. Private refuse collector should be deployed for clearance and disposal of refuse generated from the Site; and
- (l) to note the comments of the Director of Electrical and Mechanical Services (DEMS) that for 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 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 observe the Electricity Supply Lines (Protection) Regulation (the 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.