

Previous Applications covering the Application Site

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/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)	A5, A6, A10,A11
A/NE-TK/321	Proposed Temporary Hobby Farm (Organic Farm and Fresh Provision Shop) for a Period of 5 Years	29/10/2010 (Approved for 3 years up to 29/10/2013)	A3,A5,A6,A10
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)	A5, A10,A12
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)	A5, A10,A12
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)	A3, A5,A6-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)	A4, A5, A6, A9, A10 (Revoked on 20/11/2016)

Approval Conditions

- A1. no night-time operation after the specified time 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 and/or 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 submission and implementation of proposals for water supplies for fire-fighting and fire service installations within specified periods from the date of planning approval
- A7. the existing vehicular access and parking facilities, and the existing trees and landscape plantings on the site should be maintained at all times during the planning approval period.
- A8. the submission and implementation of water main diversion proposal within specified periods from the date of the planning approval
- A9. the existing vehicular access and parking and drainage facilities on the site shall be maintained at all times during the planning approval period
- A10. no night-time operation between the specified time was allowed on the application site during the planning approval period
- A11. the existing vehicular access and parking facilities, the existing drainage facilities, and the existing trees and landscape plantings on the site should be maintained at all times during the planning approval period
- A12. the existing vehicular access and parking facilities, the existing drainage facilities, the existing trees and landscape plantings and the existing fire service installations on the site should be maintained at all times during the planning approval period

Rejected Application

Application No.	Proposed Development	Date of Consideration	Rejected Reasons
A/NE-TK/495	Proposed House (New Territories Exempted House - Small House)	29/06/2016 (Appeal dismissed)	R1-R2 (Review)
A/NE-TK/496	Proposed House (New Territories Exempted House - Small House)	29/06/2016 (Appeal dismissed)	R1-R2 (Review)

Rejected Reasons

- R1. the proposed development is not in line with the planning intention of the "AGR" zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. The "AGR" zone is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention.
- R2. approval of the application would set an undesirable precedent for similar applications at the subject "AGR" zone, resulting in village expansion to the south of Ting Kok Road, leading to disturbance to landscape resources in the surrounding area and degradation of the existing agricultural/recreational landscape character.

**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/147	Proposed Temporary Barbecue Site for a Period of 2 Years	22/11/2002 (Approved for 2 years up to 22/11/2004)	A2,A13
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,A3,A5- A7,A13
A/NE-TK/265	Temporary Barbecue Site and Ancillary Carpark for a Period of 3 Years	07/11/2008 (Approved for 2 years up to 07/11/2010)	A2-A6,A12
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)	A2, A5, A7, A9 - A11,A13
A/NE-TK/624	Temporary Barbecue Site for a Period of 3 Years	09/02/2018 (Approved for 3 years)	A1,A2,A7,A9, A10,A14,A15

Approval Conditions

- A1. the submission and implementation of parking, pedestrian access 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 specified time 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 and/or 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 the specified time 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
- A12. no pond filling activities was allowed on the site
- A13. the submission and implementation of vehicular access and parking and loading/unloading proposals within specified periods from the date of planning approval
- A14. the existing drainage facilities on the application site should be maintained at all times during the planning approval period
- A15. the existing trees and vegetation on the application site should be maintained at all times during the planning approval period

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.

Advisory Comments from Government Departments

- (a) 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 (the Site);
- (b) to resolve any land issue relating to the development with the concerned owners of the Site;
- (c) shorter compliance periods are granted with a view to monitoring the operation of the barbecue site cum car park;
- (d) 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 structures shall be erected within the Site without prior approval from LandsD; and
 - (iii) if the planning application is approved, the relevant registered owners of the private lots with proposed structures erected/to be erected are required to immediately submit their Short Term Waiver (STW) applications to DLO/TP. There is no guarantee that the application for STW will ultimately be approved. LandsD would at its discretion acting in the landlord's capacity in dealing with the STW applications. If the STW application is approved, it will be subject to such terms and conditions, including payment of fees as considered appropriate. Otherwise, appropriate lease enforcement action would be taken in due course;
- (e) 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;
- (f) to note the comments of the Commissioner of Police (C of P) that to prevent vehicle obstruction, the following traffic improvement and management shall be explored and considered:
 - (i) some lay-bys shall be planted at the access road of the barbecue site; and
 - (ii) to prevent any obstruction or potential danger, it is suggested that no right turn for vehicles from Ting Kok Road (Tai Mei Tuk Bound) to the barbecue site via the opposite lane. Instead, the vehicles shall travel along Ting Kok Road (Tai Mei Tuk Bound) for a U-turn at Tai Mei Tuk Road and then make a left turn from Ting Kok Road (Tai Po Bound) to the barbecue site;
- (g) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that:
 - (i) the existing drainage system proposed for discharge of the runoff from the Site is not maintained by DSD. The applicant is required to rectify/modify the drainage system if it is found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify the Government against claims and demands arising out of damage or nuisance caused by failure of the systems;

- (ii) the applicant should take all precautionary measures to prevent any disturbance, damage and pollution from the development to any parts of the existing drainage facilities in the vicinity of the Site. In the event of any damage to the existing drainage facilities, the applicant/developer would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom; and
 - (iii) existing public sewerage connection is available in the vicinity of the Site;
- (h) 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;
- (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 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; and
- (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.