

Previous Application at the Site

Approved Application

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-TK/442	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	19.7.2013 (Revoked on 19.7.2015)	A1-A7

Approval Conditions

- A1. The proposed development should maintain a clearance of 3.5m from the top of the embankment of the existing natural stream course during the planning approval period.
- A2. No night-time operation between the specified time, as proposed by the applicant, was allowed on the application site during the planning approval period.
- A3. The submission and implementation of landscape proposal within specified periods from the date of planning approval.
- A4. The submission and implementation of drainage proposal within specified periods from the date of planning approval .
- A5. The submission and implementation of fire service installations and water supplies for fire fighting proposals within specified periods from the date of planning approval.
- A6. Revocation of planning approval for non-compliance with conditions by a specified date/during the planning approval period.
- A7. The reinstatement of the application site upon the expiry of the planning permission.

**Similar Applications within the Same “Recreation” Zone
on the Ting Kok Outline Zoning Plan**

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-TK/403	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	5.10.2012	A1 – A5
A/NE-TK/457	Proposed Temporary Shop and Services (Pet Supplies Shop and Ancillary Veterinarian Clinic) for a Period of 3 Years	2.8.2013 (Revoked on 2.2.2015)	A1-A5, A11-A12
A/NE-TK/549	Proposed Temporary Shop and Services (Real Estate Agency and Convenience Store) for a Period of 3 Years	3.7.2015	A1, A3-A5, A8, A11, A13
A/NE-TK/564	Temporary Shop and Services(Real Estate Agency)for a Period of 3 Years	20.11.2015	A1,A3,A4,A5, A8
A/NE-TK/592	Proposed Temporary Shop and Services (Fresh Provision Supplier) for a Period of 3 Years	30.9.2016 (Revoked on 30.3.2017)	A1,A3,A4
A/NE-TK/614	Proposed Temporary Shop and Services (Fresh Provision Supplier) for a Period of 3 Years	14.7.2017	A1, A3,A4
A/NE-TK/639	Renewal of Planning Approval for Temporary Shop and Services (Real Estate Agency and Convenience Store) for a Period of 3 Years	15.6.2018 (Revoked on 4.4.2019)	A1, A4-A5, A8-A10
A/NE-TK/652	Proposed Temporary Shop and Services (Store) for a Period of 3 Years	19.10.2018	A1-A3

Approval Conditions

- A1. No night-time operation between the specified time, as proposed by the applicant, was allowed on the application site during the planning approval period.
- A2. The submission and implementation of drainage proposal within specified periods from the date of planning approval .
- A3. The submission and implementation of fire service installations and water supplies for fire-fighting proposal within specified periods from the date of planning approval.
- A4. Revocation of planning approval for non-compliance with conditions by a specified date/during the planning approval period.

- A5. The reinstatement of the application site upon the expiry of the planning permission.
- A6. The proposed development should maintain a clearance of 3.5m from the top of the embankment of the existing natural stream course during the planning approval period.
- A7. The submission and implementation of landscape proposal within specified periods from the date of planning approval.
- A8. The existing drainage facilities on the application site should be properly maintained at all times during the planning approval period.
- A9. The submission and implementation of a tree preservation and landscape proposal within specified periods from the date of renewed planning approval.
- A10. The submission and implementation of a fire service installations proposal within specified periods from the date of renewed planning approval.
- A11. The provision of car-parking facilities and loading/unloading spaces for the applied use within a specified period from the date of planning approval.
- A12. The implementation of landscape proposal as submitted under the application within a specified period from the date of planning approval.
- A13. The existing trees and landscape planting on the application site should be properly maintained at all times during the planning approval period.

Rejected Application

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-TK/523	Proposed Temporary Eating Place (Restaurant) and Shop and Services (Convenience Store) for a Period of 5 Years	31.10.2014	R1,R2

Rejection Reasons

- R1. The planning intention of the "Recreation" ("REC") zone was intended primarily for recreational developments for the use of the general public. It encouraged the development of active and/or passive recreation and tourism/eco-tourism. The applicant failed to demonstrate that the proposed development is in compliance with the planning intention of the "REC" zone.
- R2. The applicant failed to demonstrate that the proposed development would not have adverse environmental and landscape impacts on the surrounding areas.

Recommended Advisory Clauses

- (a) the planning permission is given to the uses under application. It does not condone any other development/uses which currently on the application site (the Site) and not covered by the application. The applicant shall be requested to take immediate action to discontinue such development/uses not covered by the planning permission;
- (b) to note the comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) that:
 - (i) the applicant is required to submit a Short Term Waiver (STW) application to LandsD should he wish to erect any structure on the Site. If the STW 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;
 - (ii) there is no guarantee of right-of-way to the Site or approval of Emergency Vehicular Access (EVA) thereto; and
 - (iii) as regards the suspected illegal occupation of Government land and suspected unauthorised structures erected on the Site, LandsD will consider taking land control action and lease enforcement action as appropriate;
- (c) to note the comments of the Director of Fire Services (D of FS) that:
 - (i) the applicant should submit relevant layout plans incorporated with the proposed fire services installations (FSIs) for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and the locations of the proposed FSIs to be installed should be clearly marked on the layout plans; and
 - (ii) if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans;
- (d) to note the comments of the Director of Agriculture, Fisheries and Conservation (DAFC) that there is a stream course to the east of the Site. The applicant should follow Buildings Department's Practice Note for Authorised Persons and Registered Structural Engineers No. ADV-27 "Protection of natural streams/rivers from adverse impacts arising from construction works", in particular Appendix B "Guidelines on Developing Precautionary Measures during the Construction Stage", so as to avoid disturbance to the stream and causing water pollution;
- (e) to note the comments of the Director of Environmental Protection (DEP) that the applicant is advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites";
- (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 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) there is existing public sewerage available for connection in the vicinity of the site; and
 - (iii) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought;
- (g) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that:
- (i) if any 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 any containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BA 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 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) in connection with (ii) above, the Site shall be provided with means of obtaining access thereto from a street under the Building (Planning) Regulation 5 and EVA shall be provided under the Building (Planning) Regulation 5 and 41D; and
 - (v) 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 building plan submission stage.

- (h) to note the comments of the Director of Food and Environmental Hygiene (DFEH) that:
- (i) proper licence/permit issued by the Food and Environmental Hygiene Department (FEHD) is required if there is any food business / catering service/activities regulated by DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislations for the public. Under the Food Business Regulation (Cap. 132X), a food business licence is required for the operation of the relevant type of food business listed in the Regulation. 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 FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132) shall be obtained. The application for licence, if acceptable by the FEHD, will be referred to relevant government departments such as the BD, FSD and Planning Department for comment. 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 several types of food business licence/permits that the operator of a grocery store may apply for under the Food Business Regulation:
 - (1) if food is sold to customers for consumption on the premises, a restaurant licence should be obtained;
 - (2) if food is only prepared for sale for consumption off the premises, a food factory licence should be obtained;
 - (3) if fresh, chilled or frozen meat is sold, a fresh provision shop licence should be obtained; and
 - (4) if milk, frozen confections, non-bottled drinks, cut fruit etc. are to be sold, relevant restricted food permits should be obtained; and
 - (iii) the operator of related shop or store should take measures to prevent the existence of nuisance such as noise nuisance, pest nuisance and accumulation of refuse at the Site. The refuse generated by the proposed use are regarded as trade refuse. The management or owner of the Site is responsible for its removal and disposal at their expenses. The operation of any business should not cause any obstruction or environmental nuisance in the vicinity; and
- (i) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that for the provision of water supply to the proposed use, 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.