

**Relevant Extracts of Town Planning Board Guidelines No. 34C on
Renewal of Planning Approval and Extension of Time for
Compliance with Planning Conditions for Temporary Use or Development
(TPB PG-No. 34C)**

1. The criteria for assessing applications for renewal of planning approval include:
 - (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
 - (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
 - (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
 - (d) whether the approval period sought is reasonable; and
 - (e) any other relevant considerations.

2. Under normal circumstances, the approval period for renewal should not be longer than the original validity period of the temporary approval. In general, the Board is unlikely to grant an approval period exceeding three years unless there are strong justifications and the period is allowed for under the relevant statutory plans. Depending on the circumstances of each case, the Board could determine the appropriate approval period, which may be shorter than the time under request.

**Previous Applications covering the Application Premises
on the Ting Kok Outline Zoning Plan**

Approved Applications

Application No.	Proposed Development	Date of Consideration	Rejected Reasons
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,A2,A3
A/NE-TK/614	Proposed Temporary Shop and Services (Fresh Provision Supplier) for a Period of 3 Years	14.7.2017	A1, A2,A3

- 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 fire service installations and water supplies for fire-fighting proposal within specified periods from the date of planning approval.
- A3. Revocation of planning approval for non-compliance with conditions by a specified date/during the planning approval period.

**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/442	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	19.7.2013 (Revoked on 19.7.2015)	A1-A7
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, A10, A11
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-A10
A/NE-TK/564	Temporary Shop and Services(Real Estate Agency)for a Period of 3 Years	20.11.2015	A1,A3-A5,A8
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, A3-A5, A8, A11
A/NE-TK/652	Proposed Temporary Shop and Services (Store) for a Period of 3 Years	19.10.2018	A1-A4
A/NE-TK/655	Renewal of Planning Approval for Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	16.11.2018	A1,A3,A4,A8
A/NE-TK/666	Proposed Temporary Shop and Services (Grocery Store) for a Period of 3 Years	2.8.2019	A1-A4,A6
A/NE-TK/675	Proposed Temporary Shop and Services (Real Estate Agency and Convenience Store) for a Period of 3 Years	26.5.2020	A1, A3, A4, A8, A11

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 specified height 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 existing trees and landscape planting on the application site should be properly maintained at all times during the planning approval period.
- A10. The provision of car-parking facilities and loading/unloading spaces for the applied use within a specified period from the date of planning approval.
- A11. The implementation of tree preservation and landscape proposal as proposed /submitted under the application within a specified period from the date of planning approval.

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) to note the comments of the Commissioner for Transport (C for T) that the existing village access connecting to the Premises is not managed by Transport Department. The land status, management and maintenance responsibilities of the road and footpath should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes;
- (b) to note the comments of the Director of Environmental Protection (DEP) that the applicants should follow the latest 'Code of Practice on Handling Environmental Aspect of Temporary Uses and Open Storage Uses' issued by Environmental Protection Department (EPD);
- (c) to note the comments of 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 the Buildings Ordinance (BO) and should not be designated for any approved use under the application;
 - (ii) before any new building works are to be carried out on the application site (the Site), prior approval and consent of the Building Authority (BA) should be obtained unless they are exempted building works or commenced under the simplified requirement under the Minor Works Control System. 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 Buildings Ordinance (BO);
 - (iv) if the applied use under application is subject to the issue of a licence, please 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) 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; and
 - (vi) 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 Building Authority under Building (Planning) Regulation 19(3) at building plan submission stage;
- (d) to note the comments of the Director of Food and Environmental Hygiene (DFEH) that

- (i) proper licence / permit issued by Food and Environmental Hygiene Department (FEHD) is required if there is any food business / catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation 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 Buildings Department, Fire Services Department 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 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 operators 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 Premises. The refuse generated by the shop or store are regarded as trade refuse. The management or owner of the Premises 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;
- (e) 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; and

- (f) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that:
- (i) while there are DSD's public stormwater drains in this area, the applied use should have its own stormwater collection and discharge system to cater for the runoff generated within the Premises and overland flow from the surrounding of the Premises, e.g. surface channel of sufficient size along the perimeter of the Premises; sufficient openings should be provided at the bottom of the boundary wall/fence to allow surface runoff to pass through the Premises if any boundary wall/fence are to be erected. Any existing flow path affected should be re-provided. The applied use should neither obstruct overland flow nor adversely affect the existing natural streams, village drains, ditches and the adjacent areas. The applicants are required to maintain the drainage systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicants 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 are existing public sewers in the vicinity of the Premises; 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.