

TPB PG-No. 34C

**TOWN PLANNING BOARD GUIDELINES ON
RENEWAL OF PLANNING APPROVAL AND
EXTENSION OF TIME FOR COMPLIANCE WITH PLANNING CONDITIONS
FOR TEMPORARY USE OR DEVELOPMENT**

(Important Note:-

The Guidelines are intended for general reference only.

Any enquiry on this pamphlet should be directed to the Secretariat of the Town Planning Board (15th Floor, North Point Government Offices (NPGO), 333 Java Road, North Point, Hong Kong – Tel. No. 2231 4810 or 2231 4835) or the Planning Enquiry Counters of the Planning Department (Hotline: 2231 5000) (17th Floor, NPGO and 14/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin).

The Guidelines are subject to revision without prior notice.)

1. Introduction

These Guidelines set out the application procedures and assessment criteria for applications for renewal of planning approvals and extension of time for compliance with planning conditions for temporary use or development by the Town Planning Board (the Board).

2. Renewal of Approvals for Temporary Use/Development

Planning approvals for temporary uses and developments are subject to a specific approval period. The planning approval will lapse upon expiry of the approval period. The applicant may apply to the Board for a renewal of the temporary approval if the temporary use and development is to be continued. However, should there be new planning circumstances governing the application, the Board is under no obligation to renew the temporary approval.

3. Application Procedures

3.1 An application for renewal of planning approval for temporary use or development is in nature an application for planning permission and will be processed in accordance with the provision of the extant statutory plan under s.16 of the Town Planning Ordinance (Ordinance). The application should be submitted and processed in accordance with the procedures set out in the relevant Guidance Notes and Town Planning Board Guidelines applicable to

s.16 applications.

- 3.2 An applicant who wishes to seek a renewal of the approval is required to submit an application to the Board for proposal involving renewal of permission for temporary use/development, and satisfying the relevant submission requirements including the ‘owner’s consent/notification’ requirements. Since these applications involve only the renewal of approval previously granted by the Board, a streamlined approach in respect of the submission requirements could be adopted, i.e. there is no need to undertake new technical assessments to support the s.16 application, so long as there is no major change in planning circumstances¹ (such as a change in the planning policy/land-use zoning for the area). Updated assessments may however need to be submitted if necessary. In general, the applicant is only required to provide:
- (a) reasons for the application;
 - (b) time period for which a renewal is sought but the period requested cannot exceed the maximum period of temporary use/development allowed in the Notes of the concerned statutory plan; and
 - (c) an account of whether the planning conditions on submission of technical assessments and provision of facilities under the previous approval have been complied with to the satisfaction of the concerned Government departments.
- 3.3 Such applications should be submitted to the Board no less than 2 months before the expiry of the temporary approval so as to allow sufficient time for processing in accordance with the Ordinance, e.g. publication for public inspection and comments. Applications submitted less than 2 months before the expiry of the temporary approval may not be processed for consideration of the Board. A fresh s.16 planning application for the development in accordance with the provision of the extant statutory plan will be required.
- 3.4 Such applications should also be submitted to the Board no more than 4 months before the expiry of the temporary approval. The rationale behind this arrangement is that if an application is submitted too early, the Board, in considering the application, cannot take into account the planning circumstances at the time nearer to the expiry of the planning approval. Any

¹ Please consult the relevant District Planning Offices of the Planning Department or the concerned Government departments if there is any doubt on the need for submission of technical assessments.

change in the planning circumstances may have a material bearing on the decision of the application.

4. Assessment Criteria

4.1 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.

4.2 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.

5. Extension of Time for Compliance with Planning Conditions for Temporary Use/Development

5.1 Planning permissions for temporary use or development are generally granted by the Board subject to conditions with time limits specified for compliance. If an applicant cannot comply with any of such conditions within the specified time limit, he may apply for an extension of time to comply with the

conditions.

- 5.2 The time-limited condition attached to planning permission imposed by the Board is to ensure that the planning conditions would be implemented within a reasonable period. The Board could only grant an extension of time for compliance with planning conditions with good justifications.
- 5.3 An extension of time for compliance with the time-limited planning conditions falls within Class B amendments published by the Board. For such an extension, an application shall be made to the Board in accordance with s.16A of the Ordinance. The application procedures set out in the relevant Guidance Notes and Town Planning Board Guidelines for Class A and Class B Amendments to Approved Development Proposals should be followed.
- 5.4 The applicant shall submit the application to the Board no less than 6 weeks before the expiry of the specified time limit so as to allow sufficient time for processing and consultation with concerned Government departments.
- 5.5 An application submitted less than 6 weeks before the expiry of the specified time limit may not be processed for consideration of the Board. If any planning condition is not complied with by the specified time limit, the planning permission will be revoked. The Board will not consider such application if the permission has already been revoked at the time of consideration, despite the application is submitted before the expiry of the specified time limit. Under such circumstances, a fresh s.16 planning application for the development in accordance with the provision of the extant statutory plan will be required.
- 5.6 In support of an application for extension of time for compliance with planning conditions, the applicant is required to provide:
 - (a) reasons for the application;
 - (b) time period for which an extension of time is sought; and
 - (c) an account of all activities taken to implement the planning conditions since the granting of planning permission, including evidence and documentation on the submitted proposals and any works undertaken/completed to fulfil the conditions.

6. Assessment Criteria

- 6.1 The criteria for assessing applications for extension of time for compliance with planning conditions include:
- (a) whether the applicant has given full justifications on why the planning condition(s) could not be complied with within the prescribed time-limit;
 - (b) whether the applicant has demonstrated that reasonable action(s) have been taken to comply with all or the outstanding planning conditions;
 - (c) whether there are any adverse planning implications arising from the extension of time for compliance with planning conditions;
 - (d) whether the extension sought is reasonable; and
 - (e) any other relevant considerations.
- 6.2 Under no circumstances should the extension of time for compliance with planning conditions exceed the original validity period of the temporary approval.

Previous Applications Covering the Site

<u>Application No.</u>	<u>Development</u>	<u>Date of Consideration</u>	<u>Rejection Reasons / Approval Conditions</u>
Approved Applications			
A/TY/106	Temporary asphalt plant for a period of three years	29.1.2010 Approved with conditions by the MPC of the TPB	(a), (b), (c), (d), (e), (f), (g)
A/TY/118	Temporary asphalt plant for a period of three years	6.7.2012 Approved with conditions by the MPC of the TPB	(a), (h), (i), (j), (k)
A/TY/129	Temporary asphalt plant for a period of five years	7.8.2015 Approved with conditions by the MPC of the TPB	(a), (b), (c), (l), (m)

Approval Conditions:

- (a) no queuing on public roads in the vicinity of the application site resulting from the operation of the asphalt plant should be allowed at any time during the planning approval period;
- (b) the submission of landscape proposal within six months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB;
- (c) the implementation of the landscape proposal within nine months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB;
- (d) the submission of footpath, internal road, internal run-around facilities and vehicles buffer queuing spaces proposals within six months from the date of planning approval to the satisfaction of the Commissioner for Transport (C for T) or of the TPB;
- (e) the implementation of footpath, internal road, internal run-around facilities and vehicles buffer queuing spaces proposals within nine months from the date of planning approval to the satisfaction of the C for T or of the TPB;
- (f) the submission of emergency vehicular access, water supply for fire fighting and fire service installations proposals within six months from the date of planning approval to the satisfaction of the Director of Fire Services (D of FS) or of the TPB;

- (g) the implementation of emergency vehicular access, water supply for fire fighting and fire service installations proposals within nine months from the date of planning approval to the satisfaction of the D of FS or of the TPB;
- (h) the submission of landscape and tree preservation proposals within six months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB;
- (i) the implementation of landscape and tree preservation proposals within nine months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB;
- (j) the submission of water supplies for fire fighting and fire service installations proposals within six months from the date of planning approval to the satisfaction of the D of FS or of the TPB;
- (k) the implementation of water supplies for fire fighting and fire service installations proposals within nine months from the date of planning approval to the satisfaction of the D of FS or of the TPB;
- (l) the submission and implementation of fire service installations and water supplies for fire fighting within six months from the date of planning approval to the satisfaction of the D of FS or of the TPB; and
- (m) the submission of a Barging Operation Plan to the satisfaction of the Director of Marine or of the TPB before commencement of vessel/barging activities.

Similar Applications

<u>Application No.</u>	<u>Development</u>	<u>Date of Consideration</u>	<u>Rejection Reasons / Approval Conditions</u>
Approved Applications			
A/TY/32	Cement manufacturing and concrete batching plant	13.1.1995 Approved with conditions by the Metro Planning Committee (MPC) of the Town Planning Board (TPB)	(a), (b), (c), (d)
A/TY/58	Proposed asphalt concrete batching and cement manufacturing plant	5.5.2000 Approved with conditions by the MPC of the TPB	-
A/TY/59	Proposed asphalt concrete batching and cement manufacturing plant	5.5.2000 Approved with conditions by the MPC of the TPB	-
A/TY/135	Proposed temporary asphalt plant for a period of five years	2.8.2019 Approved with conditions by the MPC of the TPB	(g), (u), (v), (w), (x), (y), (z), (aa), (bb), (cc)

Approval Conditions:

- (a) the submission of a detailed Environmental Impact Assessment and the implementation of any necessary mitigation measures and monitoring requirements on the cement plant and concrete batching plant, in particular the asphalt production facilities and the transportation of asphalt, to the satisfaction of the Director of Environmental Protection (DEP) or of the TPB;
- (b) the arrangement of a vehicular access through the application site to the adjacent works area to the satisfaction of the Director of Highways or of the TPB;
- (c) the improvement of Tsing Keung Road adjacent to the application site to the satisfaction of the Director of Highways or of the TPB;
- (d) the submission and implementation of a car parking / queuing layout to the satisfaction of the Commissioner for Transport (C for T) or of the TPB;

- (e) the submission of a traffic management plan including details on the fleet management and monitoring / auditing mechanism, restrictions of vehicles at critical junctions and a transportation plan before commencement of the operation of the proposed development to the satisfaction of the C for T or of the TPB;
- (f) the implementation of the approved traffic management / transportation plans during the operation period of the proposed development to the satisfaction of the C for T or of the TPB;
- (g) no queuing on public roads in the vicinity of the application site resulting from the proposed development shall be allowed at any time during the planning approval period;
- (h) the design and implementation of the road junction improvement works, as proposed by the applicant, before commencement of the operation of the proposed development to the satisfaction of the C for T or of the TPB;
- (i) the design of the proposed vehicle marshalling area, as proposed by the applicant, before commencement of the operation of the proposed development to the satisfaction of the C for T or of the TPB;
- (j) the provision of the proposed vehicle marshalling area, as proposed by the applicant, during the operation period of the proposed development to the satisfaction of the C for T or of the TPB;
- (k) the submission and implementation of water supplies for fire fighting and fire service installations proposals before commencement of the operation of the proposed development to the satisfaction of the D of FS or of the TPB;
- (l) the submission of a barging operation plan setting out details of the type and size of the vessel / barge involved, relevant operation, mooring arrangement, etc. before commencement of the operation of the proposed development to the satisfaction of the Director of Marine or of the TPB;
- (m) the implementation of the approved barging operation plan and the maintenance of the proposed measures at all times during the operation period of the proposed development to the satisfaction of the Director of Marine or of the TPB; and
- (n) the completion of a full Site Inspection conducted in accordance with requirements in the 'Practice Guide for Investigation and Remediation of Contamination Land', including the submission of Contamination Assessment Plan, Contamination Assessment Report and, if deemed necessary, Remediation Action Plan and Remediation Report before commencement of the construction of the proposed development to the satisfaction of the Director of Environmental Protection or of the TPB.

Recommended Advisory Clauses

- (a) to note the comments of the District Lands Officer/Tsuen Wan & Kwai Tsing of the Lands Department (LandsD) that
- (i) the owner of the Lot shall apply to his office for a temporary waiver to permit the marshalling area and any other parking, loading and unloading area within the Lot as required or approved by the Town Planning Board to be used ancillary to the subject plant under the current application; and
 - (ii) there is no guarantee that any new temporary waiver application or renewal of the existing temporary waiver will be approved. Any new temporary waiver application or renewal of the existing temporary waiver will be considered by the LandsD acting in the capacity as landlord at its sole discretion. Any approval, if given, will be subject to such terms and conditions, inter alia, payment of waiver fee and administrative fees, as may be approved by LandsD; and
- (b) to note the comments of the Director of Marine that should there be any changes in the barging operation and/or arrangement of the approved barging operation plan (BOP) under Application No. A/TY/129, the applicant should submit an updated Barging Operation Plan (BOP) to his satisfaction. The BOP should include but not limited to the followings:
- (i) no ocean-going vessel shall be allowed or permitted to use the sea access or berth at the designated seafrontage of the Site;
 - (ii) not more than two vessel / barging activities shall be allowed to use the sea access and berth at the designated seafrontage of the Site per day;
 - (iii) only one tier of vessel or barge shall be allowed to berth at the designated seafrontage of the Site and no off-shore anchoring shall be permitted in the vicinity;
 - (iv) any vessel / barging activity operating near or at the seafrontage of the Site shall not cause any obstruction to the through traffic of the Site nor affect the operation of other sites in the vicinity;
 - (v) the route of vessel / barging and the Marine Traffic Impact Assessment Report; and
 - (vi) any vessel or barge employed / engaged / involved for loading / unloading at the Site shall comply with local legislations. Sufficient manning shall be maintained on board the vessel / barge at all times; and

- (c) to note the comments of the Director of Fire Services that the applicant should observe the requirements of Emergency Vehicular Access (EVA) as stipulated in Section 6, Part D of the “Code of Practice for Fire Safety in Building 2011” which is administered by the Buildings Department.