

**Relevant Extracts of Town Planning Board Guidelines on**  
**Application for Open Storage and Port Back-up Uses**  
**(TPB PG-No.13F)**

1. On 27.3.2020, the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13F) were promulgated, which set out the following criteria for the various categories of area:
  - (a) Category 1 areas: considered suitable for open storage and port-backup uses. Favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses may cause significant environmental and traffic concerns;
  - (b) Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas;
  - (c) Category 3 areas: Within these areas, “existing” and approved open storage and port back-up uses are to be contained and further proliferation of such uses is not acceptable. Applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments/proposals (if required) to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions; and
  - (d) Category 4 areas: applications would normally be rejected except under exceptional circumstances. For applications on sites with previous planning approvals, and subject to no adverse departmental comments and local objections, sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments/proposals (if required) to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. The intention is however to encourage the phasing out of such non-conforming uses as early as possible. A maximum period of 2 years may be allowed upon renewal of planning permission for an

applicant to identify suitable sites for relocation. No further renewal of approval will be given unless under very exceptional circumstances and each application for renewal of approval will be assessed on its individual merit.

2. In assessing applications for open storage and port back-up uses, the other major relevant assessment criteria are also summarized as follows:
  - (a) The use of sites less than 1,000m<sup>2</sup> for open storage uses and 2,000m<sup>2</sup> for port back-up uses in rural areas, is generally not encouraged, other than sites located in major corridors, industrial/godown/workshop areas, quarrying activities or where it is demonstrated that optimum use is made of the site. This is to prevent the further proliferation of small sites in rural areas, minimizing sprawl over countryside areas and reducing travel trips;
  - (b) port back-up sites and those types of open storage uses generating adverse noise, air pollution and visual intrusion and frequent heavy vehicle traffic should not be located adjacent to sensitive receivers such as residential dwellings, hospitals, schools and other community facilities;
  - (c) port back-up uses are major generators of traffic, with container trailer/tractor parks generating the highest traffic per unit area. In general, port back-up sites should have good access to the strategic road network, or be accessed by means of purpose built roads;
  - (d) adequate screening of the sites through landscaping and/or fencing should be provided where sites are located adjacent to public roads or are visible from surrounding residential areas;
  - (e) there is a general presumption against conversion of agricultural land and fish ponds to other uses on an ad hoc basis, particularly in flood prone areas or sites which would obstruct natural drainage channels and overland flow; and
  - (f) for applications involving sites with previous planning approvals, should there be no evidence to demonstrate that the applicants have made any genuine effort to comply with the approval conditions of the previous planning applications, planning permission may be refused, or a shorter compliance period for the approval conditions may be imposed, notwithstanding other criteria set out in the Guidelines are complied with.

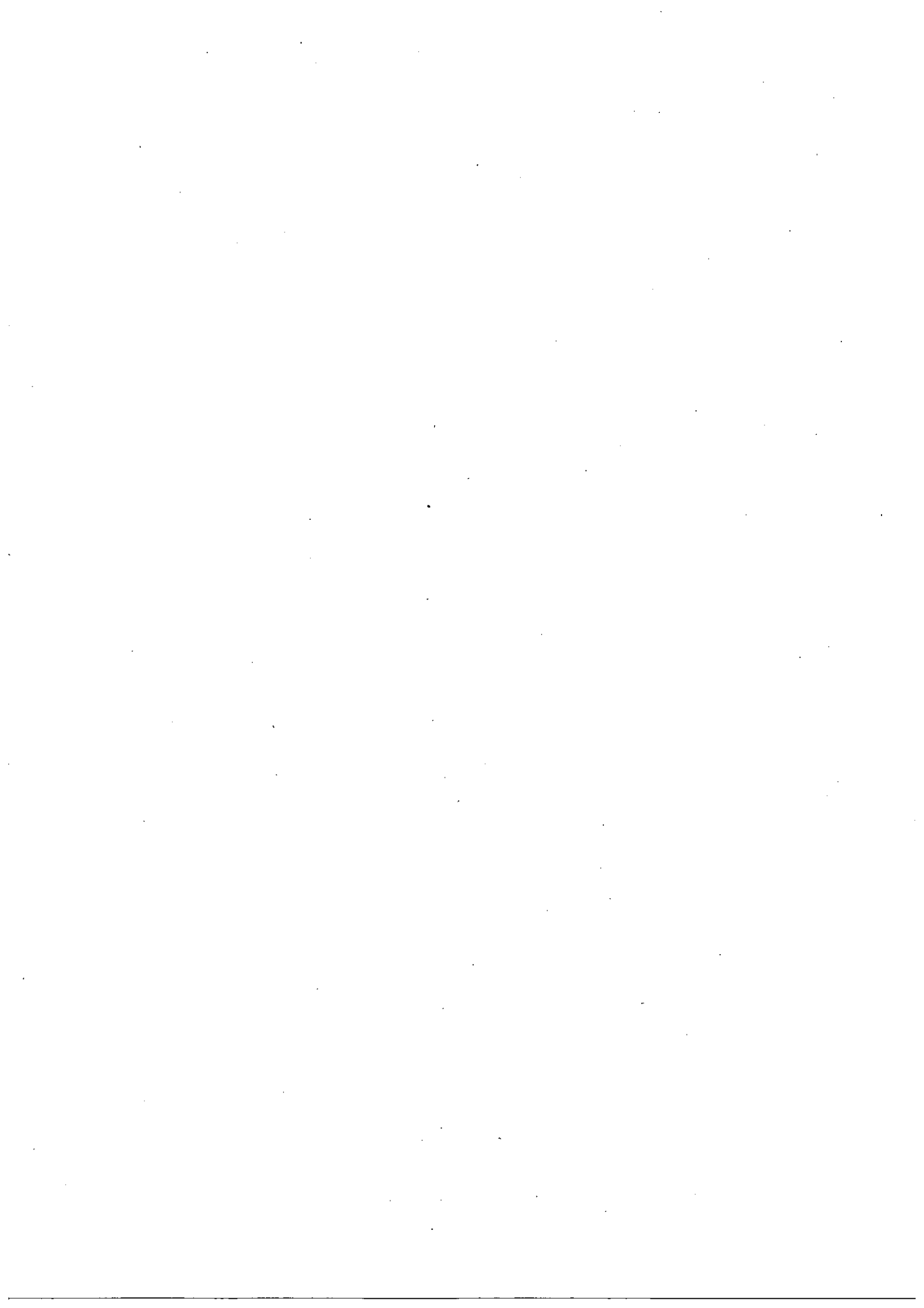
Previous s.16 Applications Covering the Site

Rejected Applications

<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration by RNTPC</u>	<u>Main Reason(s) for Rejection</u>
1. A/YL-KTS/410	Temporary Vehicle Repair Workshop for a Period of 3 Years	14.12.2007	(a), (c), (d)
2. A/YL-KTS/713	Temporary Open Storage of Construction Materials and Machinery, Office, Staff Restroom and Store Room for a Period of 3 Years	29.7.2016	(a), (b), (c), (d)
3. A/YL-KTS/786	Temporary Open Storage of Construction Materials and Machinery, Office, Staff Restroom and Store Room for a Period of 3 Years	15.6.2018	(a), (b), (c), (d)

Rejection Reasons:

- (a) the development is not in line with the planning intention of the "Agriculture" ("AGR") zone which is primarily to retain and safeguard good quality agricultural land for agricultural purposes. This zone is also intended to retain fallow arable land/farm/fish ponds with good potential for rehabilitation. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the application does not comply with the TPB PG-No. 13E in that there is no previous approval granted at the Site and there are adverse departmental comments on the application;
- (c) the applicant failed to demonstrate that the development would not generate adverse environmental, landscape and/or drainage impacts on the surrounding area; and
- (d) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the "AGR" zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.



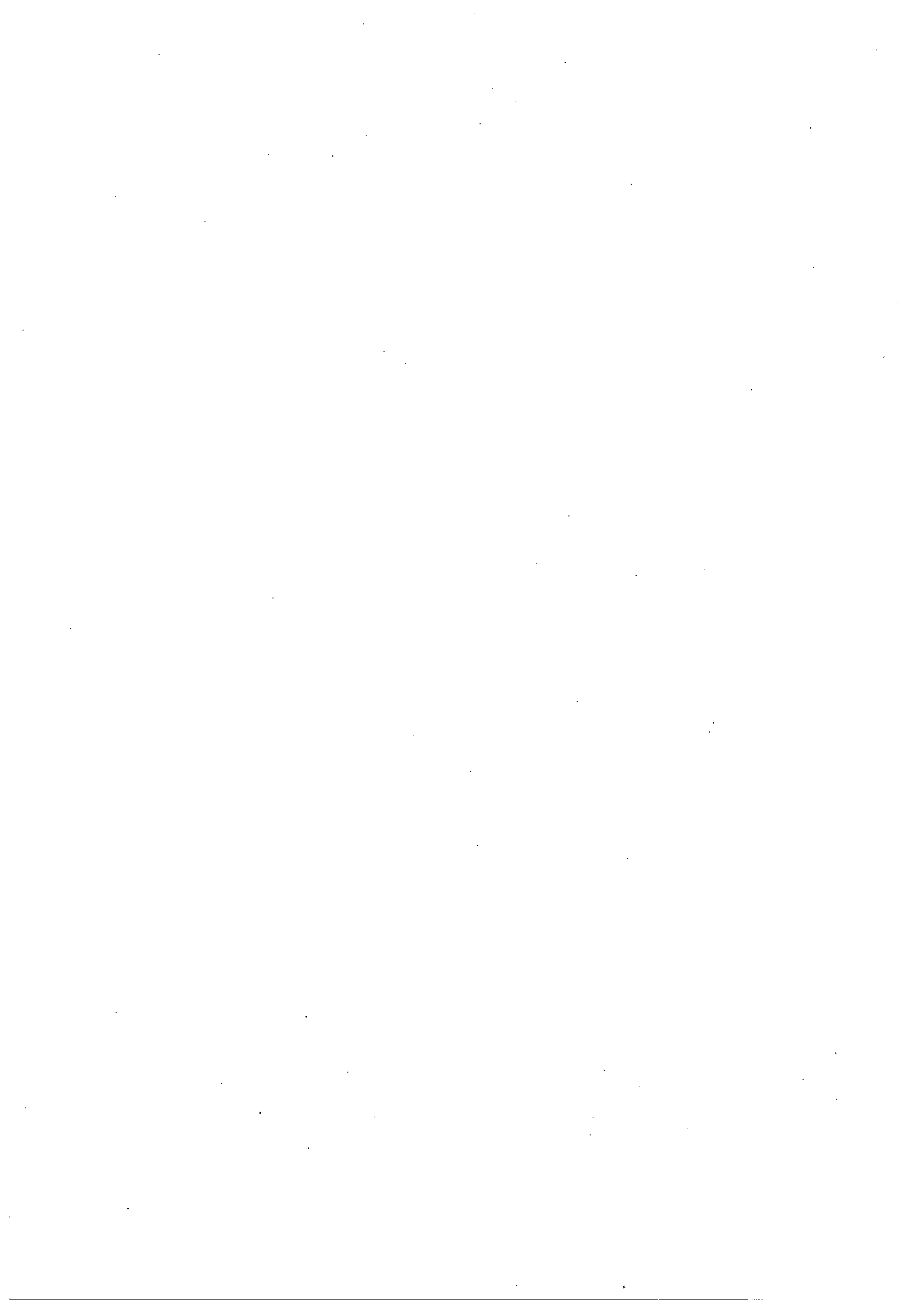
**Similar Applications within the Same "AGR" Zone on the Kam Tin South OZP**

**Rejected Applications**

	<b><u>Application No.</u></b>	<b><u>Proposed Use</u></b>	<b><u>Date of Consideration (RNTPC)</u></b>	<b><u>Approval Conditions</u></b>
1	A/YL-KTS/559	Temporary open storage of machinery for a Period of 3 Years	17.8.2012  (On Review)	(1), (2), (3), (4)
2	A/YL-KTN/748	Temporary open storage of private vehicles and light goods vehicles for a Period of 3 Years	16.3.2018	(1), (2), (4)

**Approval Conditions**

- (1) the development was not in line with the planning intention of the "AGR" zone which was to retain and safeguard good agricultural land for agricultural purposes. This zone was also intended to retain fallow arable land with good potential for rehabilitation. No strong planning justification had been given in the submission for a departure from the planning intention, even on a temporary basis
- (2) the application did not comply with the TPB PG-No. 13E in that the development was not compatible with the surrounding land uses which were predominated by residential structures/dwellings, a plant nursery and vacant/unused land; and/or there was no previous approval granted at the site and there were adverse departmental comments and/or local objections against the application
- (3) the applicant failed to demonstrate that the development would not generate adverse environmental, landscape and drainage impacts on the surrounding areas
- (4) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the "AGR" zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area



**Good Practice Guidelines for Open Storage Sites**

		Internal access for fire appliances	Lot boundaries (clear width)	Distance between storage cluster and temporary structure	Cluster size	Storage height
1.	Open Storage of Containers		2m	4.5m		
2.	Open Storage of non-combustibles or limited combustibles	4.5m	2m	4.5m		
3.	Open Storage of combustibles	4.5m	2m	4.5m	40m x 40m	3m

Remarks: Smoking and naked flame activities shall not be allowed within the open storage/recycling site.





**Advisory Clauses**

- (a) prior planning permission should have been obtained before commencing the development at the Site;
- (b) note DLO/YL, LandsD's comments that the Site comprises Government Land (GL) and an Old Scheduled Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. No permission is given for occupation of GL (about 100m<sup>2</sup> subject to verification) included in the Site. Any occupation of GL without Government's prior approval is not allowed. It is noted that the proposed structures in the planning application will include staff restroom. However, according to the established practice, application of Short Term Wavier ,etc. of temporary structures for domestic/residential uses on private agricultural land will not be entertained. Hence, even if the Board approves the planning application, his office will not consider to approve/regularize any temporary structures to be erected/erected on the lot for domestic/residential uses. The lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD;
- (c) note C for T's comments that the Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly;
- (d) note CHE/NTW, HyD's comments that his department is not/shall not be responsible for the maintenance of any access connecting the Site and Kam Ho Road. Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains;
- (e) 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" to minimise any potential environmental nuisance;
- (f) note D of FS's comments that in consideration of the design/nature of the proposal, fire service installations (FSIs) are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plan should be drawn to scale and depicted with

dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans. The good practice guidelines for open storage (**Appendix V** of the RNTPC paper) should be adhered to. To address the approval condition on provision of fire extinguisher(s), the applicant should submit a valid fire certificate (FS251) to his department for approval. However, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans; and

- (g) note CBS/NTW, BD's comments that if the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application. For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing 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. Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling etc.) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO. The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively. The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.