

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

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.



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

1. On 17.10.2008, 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. 13E) were promulgated, which set out the following criteria for the various categories of area:
 - (a) Category 1 areas: 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 within Category 3 areas 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 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 applications relevant technical assessments/proposals 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) there will be a general presumption against development on sites of less than 1,000m² for open storage uses and 2,000m² for port back-up uses in rural areas, 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 Application Site

Approved Applications

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
1	A/YL-PH/302	Temporary open storage of vehicle parts and construction materials for a period of 3 years	5.11.1999 [Revoked on 5.8.2000]	(1), (2), (3), (4)
2	A/YL-PH/382	Temporary open storage of construction materials for a period of 3 years	18.1.2002 on review	(1), (2), (3), (4), (5), (6), (7)
3	A/YL-PH/440	Temporary open storage of construction materials with ancillary container office for a period of 2 years	15.8.2003 (approved for 17 months)	(1), (2), (3), (4), (6), (7)
4	A/YL-PH/560	Temporary open storage of construction materials and vehicle parts for a period of 3 years	18.4.2008 [Revoked on 18.10.2008]	(1), (2), (3), (4), (7), (8), (9), (10)
5	A/YL-PH/613	Temporary open storage of construction materials and vehicle parts for a period of 3 years	24.9.2010 [Revoked on 24.9.2011]	(1), (2), (3), (4), (7), (8), (9), (11), (12)
6	A/YL-PH/641	Temporary open storage of construction materials and vehicle parts for a period of 3 years	6.7.2012	(1), (2), (3), (4), (7), (8), (9), (10), (11), (12)
7	A/YL-PH/716	Temporary Open Storage of Construction Materials and Vehicle Parts for a Period of 3 Years	19.6.2015	(1), (2), (3), (4), (6), (7), (8), (9), (10), (11), (12)

Approval Conditions

- (1) Submission/implementation of landscaping/tree preservation proposals within a specified time limit/maintenance of existing landscape plantings.
- (2) Submission/implementation of drainage facilities within a specified time limit/ maintenance of existing drainage facilities.
- (3) If any of the planning conditions was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice/if any of the planning conditions was not complied with by the specified time limit, the approval given shall cease to have effect and shall on the same date be revoked

- without further notice.
- (4) Reinstatement of the application site upon expiry of the planning permission.
 - (5) Submission/implementation of environmental mitigation measures proposals within a specified time limit.
 - (6) Provision of fencing/paving of the application site within a specified time limit.
 - (7) The stacking height of construction materials stored within 5m of the periphery of the application site should not exceed the height of the boundary fence of the application site.
 - (8) No night time operation was allowed on the site within a specified time period/no operation on Sundays and public holidays was allowed on the site during the planning approval period/restriction of operation hours.
 - (9) No vehicle dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities should be carried out at the site at any time during the planning approval period.
 - (10) The provision of fire extinguisher(s) within a specified time limit.
 - (11) No heavy goods vehicles and container trailers/tractors are allowed
 - (12) Submission and implementation of fire service installations proposal

Rejected Application

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC)</u>	<u>Main Rejection Reasons</u>
1	A/YL-PH/161	Temporary open storage of goods vehicles and goods vehicle repairing workshop for a period of 12 months	16.1.1998	(1), (2), (3), (4)

Main Rejection Reasons

- (1) The proposed development was not in line with the planning intention of the "Residential (Group D)" ("R(D)") zone which was to improve and upgrade the existing temporary structures within this zone and to cater for low-rise, low-density residential development. There was no strong justification for a departure from the planning intention, even on a temporary basis.
- (2) There was no information in the submission to demonstrate that the development would not have adverse drainage impact on the surrounding areas.
- (3) As "Open Storage" zones had been reserved on the Pat Heung Outline Zoning Plan for the rational development of open storage of goods which could not be accommodated in conventional godown premises, there was no justification to allow such open storage uses to proliferate in the "R(D)" zone even on a temporary basis.
- (4) The approval of the application would set an undesirable precedent for similar applications, the cumulative effect of which would further degrade the environment of the area.

**Similar Applications for Various Open Storage Uses
within the Same "R(D)" Zone or straddling "R(D)" and "AGR" zones
on the Pat Heung Outline Zoning Plan**

Approved Applications

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
1	A/YL-PH/589	Temporary open storage of vehicles, vehicle parts and construction materials (electric generators) for a period of 3 years	7.8.2009	(1), (2), (3), (4), (7), (8), (9), (10)
2	A/YL-PH/597#	Temporary open storage of construction materials and machinery for a period of 3 years	23.10.2009	(1), (2), (3), (4), (7), (8), (9), (10)
3	A/YL-PH/610	Temporary open storage of construction materials and machinery for a period of 3 years	27.8.2010 [revoked on 14.9.2011]	(1), (2), (3), (4), (7), (8), (9), (10)
4	A/YL-PH/627#	Temporary open storage of construction materials, machinery (electricity generator), vehicle parts, temporary transit shipment particles and containers for storage of plastic barriers for a period of 3 years	21.10.2011 [revoked on 21.9.2013]	(1), (2), (3), (4), (5), (7), (8), (9), (10), (11)
5	A/YL-PH/655#	Temporary open storage of construction materials, machinery and second-hand vehicles for a period of 3 years	21.12.2012 [Revoked on 21.6.2013]	(1), (2), (3), (4), (7), (8), (9), (10)
6	A/YL-PH/656	Temporary open storage of construction machinery and second hand vehicles for a period of 3 years	21.12.2012 [revoked on 21.3.2012]	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
7	A/YL-PH/660	Temporary Open Storage of Vehicles, Vehicle Parts and Construction Materials for a Period of 3 Years	3.5.2013	(1), (2), (3), (4), (5), (7), (8), (9), (10)

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
8	A/YL-PH/677#	Temporary open storage of construction materials, machinery and second-hand vehicles for a period of 3 years	8.11.2013 [Revoked on 20.12.2013]	(1), (2), (3), (4), (5), (7), (8), (9), (10),
9	A/YL-PH/685#	Temporary open storage of construction materials, machinery (electricity generator), vehicle parts, temporary transit shipment particles and containers for storage of plastic barriers for a period of 3 years	4.4.2014	(1), (2), (3), (4), (5), (7), (8), (9), (10)
10	A/YL-PH/699#	Temporary open storage of construction materials, machinery and second-hand vehicles for a period of 3 years	26.9.2014	(1), (2), (3), (4), (5), (7), (8), (9), (10)
11	A/YL-PH/710	Temporary open storage of construction machinery and second hand vehicles for a period of 3 years	27.3.2015	(1), (2), (3), (4), (6), (7), (9), (10), (12), (13), (14)
12	A/YL-PH/729	Temporary open storage of new vehicles, vehicle parts and construction materials for a period of 3 years	10.6.2016	(1), (2), (3), (4), (5), (7), (9), (10), (12), (13)
13	A/YL-PH/741	Renewal of Planning Approval for Temporary Open Storage of Construction Materials, Machinery (Electricity Generator), Vehicle Parts, Temporary Transit Shipment Particles and Containers for Storage of Plastic Barriers for a Period of 3 Years	3.3.2017	(1), (2), (3), (4), (5), (7), (9), (10), (12), (13)
14	A/YL-PH/765#	Temporary Open Storage of Construction Materials, Machinery, Second-Hand Vehicles and Vehicle Parts with Ancillary Office for a Period of 3 Years	6.4.2018	(1), (2), (3), (4), (5), (7), (8), (9), (10), (13)

Remarks:

Application straddles partly within the same "R(D)" and "AGR" zones on the OZP.

Approval Conditions

- (1) The submission and/or implementation of landscaping/tree preservation proposals/maintenance of landscape plantings.
- (2) The provision/submission and implementation/maintenance of drainage facilities/drainage record.
- (3) If any of the planning conditions is not complied with during the planning approval period/by a specified date, the approval hereby given shall cease to have effect and shall be revoked without further notice.
- (4) Upon expiry of the planning permission, the reinstatement of the application site to an amenity area.
- (5) Provision of fire extinguisher(s).
- (6) Provision/maintenance of boundary fencing
- (7) No repairing, maintenance, dismantling, cleansing, paint spraying or other workshop activities are allowed on the site.
- (8) Restriction on types of vehicles allowed for the operation of the site.
- (9) Restriction on operation hours.
- (10) The submission and implementation of fire service installations proposals.
- (11) No storage of used electrical appliances or any other types of electronic waste.
- (12) No medium or heavy goods vehicles, including container tractors/trailers, as defined in the Road Traffic Ordinance, were allowed
- (13) No reversing of vehicles into or out of the site is allowed/ No vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period
- (14) Provision of boundary fence/ maintained the existing boundary fencing on the site at all times

Rejected Applications

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Main Rejection Reasons</u>
1	A/YL-PH/585#	Temporary open storage of tires for a period of 3 years	24.7.2009	(1), (2)
2	A/YL-PH/636#	Temporary open storage of construction materials for a period of 3 years	24.2.2012	(1), (2), (3)

Remarks:

Application straddles partly within the same "R(D)" and "AGR" zones on the OZP.

Main Rejection Reasons

- (1) The development did not comply with the Town Planning Board Guidelines for 'Application for Open Storage and Port Back-up Uses' (TPB PG-No.13E) in that there was no previous approval and/or there were local objections and adverse departmental comments.
- (2) The development would generate adverse environmental impacts and/or increase fire hazards to the surrounding areas, and no technical assessments had been conducted to address the potential issues.
- (3) The proposed development was not in line with the planning intention of the "Agriculture" zone which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. There was no strong planning justification given in the submission for a departure from the planning intention, even on a temporary basis.

**Appendix VI of RNTPC
Paper No. A/YL-PH/776**

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) the Site should be kept in a clean and tidy condition at all times;
- (b) resolve any land issue relating to the development with the concerned owners of the Site;
- (c) note DLO/YL, LandsD's comments that the Site comprises Old Schedule Agricultural Lots 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. Lot No. 2901 in D.D. 111 is covered by a Short Term Waiver (STW) No. 3931 to permit structures erected thereon for the purpose of "temporary open storage of construction materials, machinery (electricity generator), vehicle parts, temporary transit shipment particles and containers for storage of plastic barriers". Lot No. 2902 (Portion) in D.D. 111 is covered by a STW No. 2916 to permit structures erected thereon for the purpose of "storage of construction materials". The concerned Government Land (GL) within the Site is covered by Short Term Tenancy (STT) No. 3033 to permit structures erected thereon for the purpose of "temporary open storage of construction materials and vehicle parts". The Site is accessible to Kam Tin Road via GL and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way to the Site. The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA. The STW and STT holder(s) will need to apply to his office for modification of the STW/STT conditions if there is any irregularities on site. Such application(s) 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 premium or fee, as may be imposed by the LandsD;
- (d) 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;
- (e) note CHE/NTW, HyD's comments that HyD is not/shall not be responsible for the maintenance of any existing vehicular access connecting the Site and Kam Tin Road. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (f) note CE/MN, DSD's comments that the drainage details shown on the drainage plan do not tally with that of the cross sections in the submission, e.g. two u-channels shown in the cross-sections A-A1 do not appear on plan. The applicant should clarify it and provide photographs to shown the existence of these surface channels and the watercourse;
- (g) note CTP/UD&L, PlanD's comments that the applicant should provide updated photos of the existing trees for record and make reference to the below document promulgated by the Development Bureau regarding good practice for tree management: Pictorial Guide for Tree Maintenance (護 養 樹 木 的 簡 易 圖 解) at

https://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf;

- (h) 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” issued by DEP;
- (i) note DAFC's comments that the applicant should preserve the trees surrounding the Site as far as practicable during operation;
- (j) note D of FS's comments that in consideration of the design/nature of the proposal, FSIs are anticipated to be required. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans. The Good Practice Guidelines for Open Storage Sites in **Appendix VI** of the RNTPC paper should be adhered to. To address the approval condition on provision of the fire extinguisher(s), the applicant should submit a valid fire certificate (FS 251) to his office for approval. The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans; and
- (k) note CBS/NTW, BD's comments that if the existing structures are erected on leased land without approval of the BD (not being New Territories Exempted Houses), they are unauthorized under the BO and should not be designated for any use under the subject application. Before any new building works (including containers / open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of BD should be obtained. Otherwise, they are Unauthorized Buildings Works. An Authorized Person should be appointed as the coordinator 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. For UBW erected on leased land, enforcement action may be taken by the BD 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. If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.