

**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

Rejected Application

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejection Reasons</u>
1	A/YL-PH/4	Temporary Lorry / Coach Park for a period of 12 months	2.12.1994	(1), (2), (3), (4), (5)
2	A/YL-PH/489	Temporary Open Storage of Construction Materials and Lorry Park for 3 a period of years	19.8.2005 (on review)	(1), (2), (3)
3	A/YL-PH/533	Temporary Logistics and Freight Yard for a period of 3 years	6.7.2007 (on review)	(1), (2), (3)

Rejection Reasons

- (1) The development is not in line with the planning intention of the "Residential (Group D)" ("R(D)") and "Agriculture" ("AGR") zone. No strong justification has been given in the submission for a departure from the planning intention, even on a temporary basis
- (2) The proposed development does not conform with the Town Planning Board's 'Guidelines for Application for Open Storage and Port Back-up Uses' as it is not compatible with nearby residential developments / no previous approval had been granted
- (3) There is insufficient information in the submission to demonstrate that the development would not cause adverse environmental / drainage impacts on the surrounding areas
- (4) The approval of the application will set an undesirable precedent for other applications which will lead to general degradation of the area
- (5) There is insufficient information on the vehicular access to the Site in the submission

Advisory Clauses

- (a) note DLO/YL, LandsD's comments that the Site comprises an 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. The Site is accessible from Fan Kam Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site. The lot owner(s) will need to apply to his office to permit the structures 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. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application 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;
- (b) note C for T's comments that the Site is connected to the public road network via a local access road which is not managed by his department. The land status of that local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of that local access road should be clarified with the relevant lands and maintenance authorities accordingly;
- (c) 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 Fan Kam Road. Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to the nearby public roads or exclusive road drains;
- (d) 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 the DEP;
- (e) note D of FS's comments that in consideration of the design / nature of the proposal, fire services installations (FSIs) are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporating the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy, and the location of where the proposed FSIs to be installed should be clearly marked on the layout plans. However, 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;
- (f) note CBS/NTW, BD's comments that before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are Unauthorized Building Works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO. 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. 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;

- (g) note DFEH's comments that no Food and Environmental Hygiene Department's (FEHD) facilities will be affected and such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surroundings. For any waste generated from the business, the applicant should arrange disposal properly at their own expense. Proper license / permit issued by FEHD is required if there is any catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public; and
- (h) note DAFC's comments that Tam Shui Hang (a river channel located to the northeast of the Site) supports a diversity of wetland dependent bird species. Necessary measures to avoid disturbance and pollution to the Tam Shui Hang should be adopted.