

**Relevant Extract 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 s.16 Applications covering the Application Site

Approved Applications:

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
1	A/YL-KTN/340	Temporary Private Vehicle Park for Light Goods Vehicles for a Period of 3 Years	29.1.2010	(1), (3), (5), (6), (7), (8), (9), (10), (11)
2	A/YL-KTN/400	Temporary Private Vehicle Park for Light Goods Vehicles for a Period of 3 Years	15.3.2013 [revoked on 15.9.2013]	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13)
3	A/YL-KTN/429	Temporary Private Vehicle Park for Light Goods Vehicles for a Period of 3 Years	7.2.2014	(1), (2), (3), (5), (6), (7), (8), (9), (10), (11), (12), (13)
4	A/YL-KTN/548	Renewal of Planning Approval for Temporary Private Vehicle Park for Light Goods Vehicles for a Period of 3 Years	3.2.2017	(1), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13)

Approval Conditions

- (1) Restriction on operation time/hours.
- (2) Prohibition of vehicles without valid licenses.
- (3) Prohibition of medium or heavy goods vehicles (i.e. exceeding 5.5 tonnes) as defined in the Road Traffic Ordinance or container trailers/tractors.
- (4) No reversing of vehicles into or out from the site / no vehicle is allowed to queue back to or reverse onto or from the public road at any time
- (5) Prohibition of vehicle dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities.
- (6) The provision of boundary fencing, or maintenance of existing boundary fencing.
- (7) The submission and/or implementation of landscaping/tree preservation proposals/maintenance of landscapings.
- (8) The submission and/or provision of drainage facilities, or maintenance of existing drainage facilities.
- (9) The submission and/or provision of fire service installations proposal.
- (10) If the planning condition is not complied with at any time during the planning approval or by specified date, the approval shall cease to have effect and be revoked without further notice.
- (11) Reinstatement of the application upon expiry of the planning permission.
- (12) A notice should be posted at a prominent location of the site to indicate that no medium or heavy goods vehicles exceeding 5.5 tonnes, including container trailers/tractors, as defined in the Road Traffic Ordinance is allowed.
- (13) The submission of records of the existing drainage facilities.

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-KTN/263	Temporary Open Storage of Building Materials and Vehicle Parts for a Period of 3 Years	25.5.2007	(1), (2), (3), (4), (5)

Rejection Reasons

- (1) The development was not in line with the planning intention of the "Agriculture" ("AGR") zone. No strong justification had been given in the submission for a departure from the planning intention, even on a temporary basis.
- (2) The development was not compatible with the surrounding land uses which were predominantly rural in character with cultivated and fallow agricultural land, residential dwellings and river channel. There was insufficient information to demonstrate that the proposed development would not generate adverse environmental, drainage and landscape impacts on the surrounding areas.
- (3) The application did not comply with the Town Planning Board Guidelines for Open Storage and Port Back-up Uses in that there was no previous approval granted at the site, residential dwellings were located in close proximity to the site and would be susceptible to adverse environmental nuisances generated by the development, and there were adverse comments from concerned departments.
- (4) There was no information given in the submission to demonstrate that other suitable sites within the "Industrial (Group D)" and "Open Storage" zone could not be identified for the use under application.
- (5) 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
Kam Tin North OZP**

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition (s)</u>
1	A/YL-KTN/354	Proposed Temporary Private Vehicle Park (Light Goods Vehicle) for a Period of 3 Years	4.3.2011 (Revoked on 20.5.2011)	(1), (2), (3), (4), (5), (6), (7), (8), (9), (12)
2	A/YL-KTN/373	Temporary Open Private Car Park for Medium Goods Vehicles and Storage of Construction Materials for a Period of 3 Years	10.2.2012 (Revoked on 10.11.2012)	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12)
3	A/YL-KTN/399	Temporary Private Car Park for Medium Goods Vehicle and Storage of Construction Materials for a Period of 3 Years	24.5.2013	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12)
4	A/YL-KTN/517	Temporary Private Car Park for Medium Goods Vehicle and Storage of Construction Materials for a Period of 3 Years	10.6.2016	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12)
5	A/YL-KTN/563	Temporary Private Vehicle Park for Light Goods Vehicles for a Period of 3 Years	14.7.2017	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (12), (13)
6	A/YL-KTN/648	Renewal of Planning Approval for Temporary "Private Car Park for Medium Goods Vehicles and Storage of Construction Materials" for a Period of 3 Years	3.5.2019	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14)

Approval conditions

- (1) Restriction on operation hours/time.
- (2) No medium or heavy goods vehicles or container trailers/tractors.
- (3) No dismantling, maintenance, modification, repairing, cleansing, paint spraying or other workshop activities.
- (4) Provision of boundary fencing, or maintenance of existing boundary fencing.
- (5) Submission and/or implementation of landscaping and/or tree preservation proposal, or maintenance of landscape plantings / trees within the site.
- (6) Submission and/or implementation of drainage proposal, or maintenance of existing drainage facilities.
- (7) Submission and / or implementation of fire service installations proposal.
- (8) Revocation of the planning approval if any of the planning conditions is not complied with by the specified dated or during the planning approval period.
- (9) Reinstatement of the site to an amenity area or to the original state.
- (10) A notice should be posted at a prominent location of the site to indicate that no medium or heavy goods vehicles exceeding 5.5 tonnes / no heavy goods vehicle exceeding 24 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance is allowed.
- (11) Provision of fire extinguisher(s).
- (12) Prohibition of vehicles without valid licenses.
- (13) No vehicle is allowed to queue back to or reverse onto / from public road.
- (14) The submission of records of the existing drainage facilities.

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-KTN/99	Temporary Private Car and Lorry Park and Storage of Miscellaneous Goods for a Period of 3 Years	22.10.1999	(1), (2), (3), (4)

Rejection Reasons

- (1) The development was not in line with the planning intention of the "Agriculture" ("AGR") zone which was to retain and safeguard good agricultural land for agricultural purposes. No strong justification had been given in the submission for a departure from the planning intention.
- (2) The development was not compatible with the surrounding land uses which were predominantly rural in character with cultivated and fallow agricultural land and village houses.
- (3) There was no information to demonstrate that the proposed development would not generate adverse drainage impact 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.

Advisory clauses

- (a) resolve any land issues relating to the development with the concerned land owner(s) of the Site;
- (b) note DLO/YL, LandsD's comments that the Site comprises Old Scheduled Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government. The STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate, and the owner(s) of the lot(s) without STW will need to apply to his office to permit the structures to be erected or regularize any irregularities on the 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 (TD). 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 adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains. His department shall not be responsible for the maintenance of any access connecting the Site and Kam Tai Road / Kam Tin Road;
- (e) adopt 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 to minimize any potential environmental nuisances;
- (f) note CE/MN, DSD's comments that the applicant is requested to review the drainage proposal with a larger portion of runoff falling onto / passing through the Site discharging to nearby northern main drainage channel so as to reduce the loading to local areas where record of flooding cases in the vicinity were received; and
- (g) note CBS/NTW, BD's comments that 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 the BD should be obtained, 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. If the

existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are UBW under the BO and should not be designed 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 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. 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.