

**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)</u>	<u>Approval Conditions</u>
1	A/YL-PH/404	Proposed temporary open storage of excavators and loaders for a period of 3 years	15.11.2002 on review for 2 years	(1), (2), (6), (7)
2	A/YL-PH/487	Temporary open storage of excavators and loaders for a period of 3 years	28.1.2005 for 2 years	(2), (3), (4), (5), (6), (7)
3	A/YL-PH/556	Temporary open storage of excavators and loaders for a period of 3 years	7.3.2008 [revoked on 7.3.2009]	(2), (3), (4), (5), (6), (7), (9)
4	A/YL-PH/602	Temporary open storage of excavators and loaders for a period of 3 years	29.1.2010	(3), (4), (5), (6), (7), (8), (9), (10)
5	A/YL-PH/664	Temporary open storage of excavators, loaders and construction materials for a period of 3 years	19.4.2013	(3), (4), (5), (6), (7), (8), (9), (10)
6	A/YL-PH/731	Temporary open storage of excavators and loaders for a period of 3 years	22.4.2016	(1), (4), (5), (6), (7), (8), (9), (10), (11)

Approval Conditions

1. Submission/implementation of landscaping/ tree preservation proposals within a specified date.
2. Submission/implementation of drainage proposals within a specified date.
3. Maintenance of the landscape planting on the site.
4. Restriction on operation hours.
5. Submission/provision of fire fighting and fire service installations within a specified time limit/should be maintained at all times during the approval period.
6. If any of the planning conditions is not complied with during the approval period/by the specified dates, the approval given shall cease to have effect and shall immediately/on the same date be revoked without further notice.
7. Reinstatement of the application site to amenity area upon the expiry of the planning permission.
8. No repairing, maintenance, dismantling, cleansing, paint spraying or other workshop activities.
9. Maintenance of the drainage facilities implemented on-site.
10. Provision of boundary fencing.
11. Submission of a record of the existing drainage facilities on-site

Rejected Application

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC)</u>	<u>Rejection Reasons</u>
1	A/YL-PH/240	Proposed temporary open storage of construction materials (iron frames) for 12 months	13.11.1998	(1), (2), (3), (4), (5)

Main Rejection Reasons

1. The proposed development was not in line with the planning intention of the "Residential (Group D)" zone which was to improve and upgrade the existing domestic accommodations and to cater for low-rise, low-density residential development. No strong justification had been given in the submission for departure from such planning intention, even on a temporary basis.
2. The proposed development was not compatible with the nearby village houses.
3. There was insufficient information in the submission to demonstrate that a proper vehicular access road could be provided to connect the application site with Fan Kam Road.
4. There was no information in the submission to demonstrate that the development would not have adverse drainage impact on the surrounding areas.
5. Approval of the application would set an undesirable precedent for other similar applications and the cumulative impact of approving such similar applications would result in a general degradation of the environment of the area.

Similar Applications within "R(D)" Zone on the Pat Heung Outline Zoning Plan

Rejected Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejection Reasons</u>
1	A/YL-PH/623	Temporary Open Storage of Sand and Bricks for 3 Years	23.12.2011 (on review)	(1), (2), (3)
2	A/YL-PH/662	Temporary Open Storage of Construction Machinery and Second-hand Private Vehicles and Lorries for 3 Years	15.3.2013	(1), (2), (3), (4)
3	A/YL-PH/681	Temporary Open Storage of Construction Machinery for 3 Years	17.1.2014	(1), (2), (3), (4)
4	A/YL-PH/684	Proposed Temporary Open Storage of Vehicles for Sale for 3 Years	4.4.2014	(1), (2), (3), (4)
5	A/YL-PH/691	Proposed Temporary Open Storage of Second Hand Private Cars and Trucks (30 tonnes) for 3 Years	27.6.2014	(1), (2), (3), (4)
6	A/YL-PH/695	Temporary Open Storage of Metals with Ancillary Office for 3 years	8.8.2014	(1), (2), (3), (4)
7	A/YL-PH/704	Proposed Temporary Open Storage of Vehicles for Sale for 3 Years	31.10.2014	(1), (2), (3), (4)
8	A/YL-PH/722	Temporary Open Storage of Scrap Metal for 3 Years	8.1.2016	(1), (2), (3), (4)
9	A/YL-PH/760	Proposed Temporary Open Storage of Construction Materials for 3 Years	23.3.2018 (on review)	(1), (2), (3), (4)

Rejection Reasons

- (1) The development was not in line with the planning intention of the "R(D)" zone. 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 Guidelines No. 13E for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13E) in that no previous approval had been granted at the site, no technical assessments had been included in the submission and/or there were adverse departmental comments and local objection against the application. The development was also not compatible with the surrounding land uses.
- (3) The approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the "R(D)" zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.
- (4) The applicant fails to demonstrate that the development would not generate adverse environmental, landscape and/or drainage impacts on the surrounding areas.

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) 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 Government Land (GL) and 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 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 STW and STT holder(s) will need to apply to his office for modification of the STW and STT conditions where appropriate. The owner(s) of the lot without STW will need to apply to his office to permit the structures to be erected or regularise 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 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;
- (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 does not and will not maintain the accesses connecting the Site and Fan Kam Road. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains. The portion of adjacent Slope No. 6NE-B/F8 under HyD's maintenance should not be affected;
- (e) follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses" issued by the EPD;
- (f) note CE/MN, DSD's comments that the applicant should inform the relevant department if the drainage arrangement is changed;
- (g) note CE/CM, DSD's comments that the applicant should allow the Government to conduct site inspection/investigation inside the Site for the proposed sewerage works in the area, if necessary;

- (h) note DAFC's comments that the applicant should avoid polluting or disturbing the adjacent watercourse during operation;
- (i) note D of FS's comments that the applicant should be advised that the installation/ maintenance/ modification/ repair work of FSI shall be undertaken by a Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/ maintenance/ modification/ repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to him. To address the approved condition on provision of fire extinguisher(s), the applicant should submit a valid fire certificate (FS251) to his department for approval. The applicant is advised to adhere to the 'Good Practice Guidelines for Open Storage Sites' in **Appendix VI** of the RNTPC paper. 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
- (j) note CBS/NTW, BD's comments that before any new building works (including containers and open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of BD should be obtained. Otherwise, they are Unauthorized Building Works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO. If the structures (not being New Territories Exempted House) are erected on leased land without approval of BD, they are UBW under the BO and should not be designated for any use under application. For UBW erected on leased land, enforcement action may be taken by 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.