

**Relevant Extracts 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 Application

| | <u>Application No.</u> | <u>Proposed Use(s)/Development(s)</u> | <u>Date of Consideration By RNTPC/TPB</u> | <u>Approval Conditions</u> |
|----|------------------------|---|---|--|
| 1. | A/YL-KTS/623 | Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years | 3.1.2014 | (1), (2), (3), (4), (8), (9), (10) |
| 2 | A/YL-KTS/724 | Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years | 23.12.2016 | (1), (2), (3), (5), (6), (7), (8), (9), (10) |

Approval Conditions

- (1) Restriction on operation hour
- (2) No medium or heavy vehicles exceeding 5.5 tonnes are allowed at the Site
- (3) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period
- (4) the implementation of landscape proposal
- (5) the existing trees on the site shall be maintained at healthy condition at all times during the planning approval period
- (6) the submission and implementation of drainage proposal
- (7) the implemented drainage proposal shall be maintained at all times during the planning approval period
- (8) the submission and implementation of fire service installations proposal
- (9) Revocation of planning permission if planning conditions was not complied with during the planning approval period/ by the specified time limit.
- (10) Upon expiry of the planning permission, the reinstatement of the site to an amenity area

**Similar Applications within the Same “AGR” Zone on
approved Kam Tin South Outline Zoning Plan**

Approved Applications

| | <u>Application No.</u> | <u>Proposed Use(s)/Development(s)</u> | <u>Date of Consideration By RNTPC/TPB</u> | <u>Approval Conditions</u> |
|----|-------------------------------|--|--|---|
| 1. | A/YL-KTS/534 | Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years | 5.8.2011 [Revoked on 5.5.2013] | (1), (3), (7), (8), (9), (11), (12), (13) & (14) |
| 2. | A/YL-KTS/621 | Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years | 13.12.2013 [Revoked on 13.3.2014] | (1), (2), (4), (5), (6), (8), (11), (13) & (14) |
| 3. | A/YL-KTS/714 | Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years | 12.8.2016 [Revoked on 12.11.2016] | (1), (2), (3), (4), (5), (6), (8), (11), (13) & (14) |
| 4. | A/YL-KTS/788 | Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years | 20.7.2018 [Revoked on 20.10.2018] | (1), (2), (3), (4), (8), (9), (10), (11), (13) & (14) |

Approval Conditions

- (1) Restriction on operation hour
- (2) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailer are allowed to be parked/stored on or enter/exit the site at any time during the planning approval period.
- (3) no vehicle is allowed to queue back/reverse onto/from public road at any time during the planning approval period.
- (4) the existing trees and landscape plantings on the site shall be maintained at all times during the planning approval period.
- (5) the existing drainage facilities on the site shall be maintained at all times during the planning approval period.
- (6) the submission of a record of the existing drainage facilities.

- (7) the implementation of landscape proposal.
- (8) the submission and implementation of a run-in/out proposal.
- (9) the submission and implementation of drainage proposal.
- (10) the implemented drainage facilities on the site shall be maintained at all times during the planning approval period.
- (11) the submission and implementation of fire service installations proposal.
- (12) the submission and implementation of diversion of fire hydrant and water mains proposal.
- (13) Revocation of planning permission if planning conditions was not complied with during the planning approval period/ by the specified time limit.
- (14) upon expiry of the planning permission, the reinstatement of the to an amenity area.

Advisory Clauses

- (a) resolve any land issue relating to the development with other concerned owner(s) of the Site;
- (b) note DLO/YL, LandsD's comments that the Site comprises 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. For the Government Land (GL) portion included in the Site (i.e. about 16.15m² subject to verification), in view of a planning approval was given by the Board in the previous application A/YL-KTS/724, an STT was issued by his office to permit the occupation and erection of structures on the GL concerned. However, the occupier had not accepted the STT offer and appropriate land control actions had been taken against any illegal occupation of GL. The recent site inspection to the subject location found that the structure(s) erected on the private land was projected on the GL portion included in the Site. His office would consider appropriate land control actions for the GL portion in view of the occupier had not accepted the STT offer; The Site is accessible from Kam Sheung 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 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 holder(s) will need to apply to his office for modification of the STW conditions where appropriate. 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. Furthermore, the applicant has to either exclude the GL portion from the Site or apply for a direct grant STT for use of the Site. Application 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;
- (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 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 his department is not/ shall not be responsible for the maintenance for any access connecting the Site and Kam Sheung 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;

- (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” issued by the DEP; and

- (f) 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, 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 Building Ordinance (BO). If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BD, they are UBW under the 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 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.