

**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.

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

1. On 27.3.2020, 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. 13F) were promulgated, which set out the following criteria for the various categories of area:
 - (a) Category 1 areas: considered suitable for open storage and port-backup uses. 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 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 (if required) 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 fresh applications relevant technical assessments/proposals (if required) 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) The use of sites less than 1,000m² for open storage uses and 2,000m² for port back-up uses in rural areas, is generally not encouraged, 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 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 Applications covering the Site

Approved Applications

	Application No.	Proposed Use(s)/ Development(s)	Date of Consideration By RNTPC/TPB	Approval Conditions
1	A/DPA/YL-KTS/92	Open storage of iron scaffolding	5.8.1994	(1), (2), (4), (5), (6)
2	A/YL-KTS/97	Temporary open storage of iron scaffolding for a period of 12 months	5.9.1997	(1), (2), (4), (6)
3	A/YL-KTS/144	Temporary open storage of iron scaffolding for a period of 12 months	8.1.1999	(1), (2), (6)
4	A/YL-KTS/222	Temporary open storage of iron scaffolding for a period of 3 years	11.8.2000 [revoked on 11.5.2001]	(2), (5), (6), (7)
5	A/YL-KTS/266	Temporary open storage of iron scaffolding for a period of 3 years	1.3.2002 [revoked on 1.9.2002]	(1), (2), (6), (7), (8)
6	A/YL-KTS/290	Temporary open storage of construction materials and accessories for a period of 3 years	7.3.2003	(1), (2), (6), (7)
7	A/YL-KTS/408	Proposed temporary open storage of construction materials (bamboos and racks) and accessories for a period of 3 years	30.11.2007	(1), (2), (3), (6), (7), (9), (10)
8	A/YL-KTS/528	Temporary open storage of used motor vehicles for export, used electrical appliances and children's toys for a period of 3 years	1.4.2011	(1), (3), (6), (7), (9), (10), (11), (12), (13), (14), (15)
9	A/YL-KTS/637	Temporary open storage of construction materials with ancillary office and staff restrooms for a period of 3 years	4.4.2014	(1), (3), (6), (7), (9), (10), (12), (13), (14), (15)
10	A/YL-KTS/730	Renewal of planning approval for temporary open storage of construction materials with ancillary site office and staff restrooms for a period of 3 years	3.3.2017 (for approval period from 5.4.2017 to 4.4.2020)	(1), (3), (6), (7), (9), (10), (12), (13), (14), (15), (16)

Approval Conditions

- (1) Submission / implementation of landscaping proposals / tree preservation proposal / maintenance of existing landscape planting
- (2) Submission / implementation of drainage proposals
- (3) Paving/fencing of the site or maintenance of boundary fencing
- (4) Provision of vehicular access arrangement/implementation of run-in proposal
- (5) Setting back of the site boundary
- (6) Reinstatement of the site
- (7) Revocation of the planning approval if the approval conditions were not complied with during the planning approval period or by specified date
- (8) Submission / implementation of environmental mitigation measures
- (9) Restriction on operation hours/time
- (10) No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities is allowed on the site
- (11) No storage or handling of electronic and computer wastes are allowed on site
- (12) No medium or heavy goods vehicles or container trailers/tractors is allowed to be parked/store on or entre/exit the site
- (13) No disturbance to the mitigation planting areas along the eastern boundary of the site
- (14) Submission / provision of fire service installations proposal / provision of fire extinguishers
- (15) Submission of the record of the existing drainage facilities/maintenance of existing drainage facilities
- (16) No vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period

Similar Applications within the Same “R(D)” Zone
on the Kam Tin South 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-KTS/461	Temporary open storage of vehicles and modification workshop for vans and lorries for a period of 3 years	27.3.2009	(1), (3), (4), (6), (7), (8), (10), (18), (19)
2	A/YL-KTS/463	Renewal of planning approval for “temporary open storage of vehicles and vehicle parts” use for a period of 3 years	8.5.2009	(1), (2), (3), (4), (5), (6), (7), (8)
3	A/YL-KTS/482	Renewal of planning approval for “temporary open storage of vehicle parts” use for a period of 3 years	18.12.2009	(1), (2), (3), (6), (7), (8), (9), (10)
4	A/YL-KTS/563	Temporary open storage of vehicles and vehicle parts for a period of 3 years	18.5.2012	(1), (2), (3), (5), (6), (7), (8), (14), (15), (16)
5	A/YL-KTS/584	Renewal of planning approval for “temporary open storage of vehicle Parts” Use for a Period of 3 Years	7.12.2012 [revoked on 18.6.2013]	(1), (2), (3), (5), (6), (7), (8), (14), (15), (16), (17)
6	A/YL-KTS/594	Temporary open storage of vehicles and modification workshop for vans and lorries for a period of 3 years	8.2.2013	(1), (2), (3), (4), (5), (6), (7), (8), (14), (16), (17)
7	A/YL-KTS/611	Temporary Open Storage of Vehicle Parts for a Period of 3 Years	25.10.2013 [revoked on 25.1.2014]	(1), (2), (3), (4), (5), (6), (7), (8), (14), (16), (17)
8	A/YL-KTS/655	Temporary Open Storage of Metal and Construction Materials with Ancillary Office for a Period of 3 Years	2.1.2015	(1), (2), (3), (4), (6), (7), (8), (10), (13), (16), (17)
9	A/YL-KTS/665	Temporary Open Storage of Vehicles and Vehicle Parts with Ancillary Office for a Period of 3 Years	22.5.2015	(1), (2), (3), (4), (5), (6), (7), (14), (16)
10	A/YL-KTS/684	Temporary Open Storage of Vehicles and Modification Workshop for Vans and Lorries for a Period of 3 Years	18.12.2015	(1), (2), (3), (4), (5), (6), (7), (8), (14), (16), (17)
11	A/YL-KTS/763	Renewal of Planning Approval for Temporary Open Storage of Metal and Construction Materials with Ancillary Office for a Period of 3 Years	22.12.2017 (for approval period from 3.1.2018 to 2.1.2021)	(1), (2), (3), (4), (5), (6), (7), (8), (13), (14), (16), (17)

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
12	A/YL-KTS/776	Renewal of Planning Approval for Temporary Open Storage of Vehicles and Vehicle Parts with Ancillary Office for a Period of 3 Years	16.3.2018 (for approval period from 23.5.2018 to 22.5.2021)	(1), (2), (3), (4), (5), (6), (7), (8), (14), (16), (17)
13	A/YL-KTS/794	Temporary Open Storage of Vehicles and Vehicle Parts with Ancillary Office for a Period of 3 Years	17.8.2018	(1), (2), (3), (4), (6), (7), (8), (10), (16), (17)
14	A/YL-KTS/804	Renewal of Planning Approval for Temporary Open Storage of Vehicles and Modification Workshop for Vans and Lorries for a Period of 3 Years	16.11.2018 (for approval period from 19.12.2018 to 18.12.2021)	(1), (2), (3), (4), (5), (6), (7), (14), (16), (17)

Approval Conditions:

- (1) Restriction on operating hours
- (2) No medium or heavy good vehicles exceeding 5.5 tonnes were allowed for the operation
- (3) No dismantling, maintenance, repairing, cleansing, paint spraying or workshop activities were allowed
- (4) Maintenance of the landscape plantings on the site
- (5) Maintenance of the drainage facilities on the site
- (6) The submission and implementation of fire service installation proposal
- (7) If the planning condition is not complied with at all time during the approval period or by a specified date, the approval shall cease to have effect and be revoked without further notice
- (8) Reinstatement of the site to an amenity area upon expiry of the planning permission
- (9) Submission and implementation of landscaping proposals
- (10) The submission and implementation of drainage proposals
- (11) No disturbance to the mitigation planting areas to preserve and protect the vegetation of the site
- (12) No storage or handling of electronic and computer waste
- (13) Maintenance of existing fencing
- (14) Submission of the record of the existing drainage facilities
- (15) The submission and implementation of tree preservation proposal
- (16) The provision of fire extinguishers
- (17) No reversing of vehicles into or out of the site / no vehicle is allowed to queue back to or reverse onto / from public road at any time
- (18) No heavy vehicles exceeding 24 tonnes were allowed
- (19) Iron fence erected against the existing trees and materials stored against the tree trucks must be removed

Rejected Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejection Reason(s)</u>
1	A/YL-KTS/536	Temporary Car Breaking Workshop and Open Storage of Vehicles and Vehicle Parts with Ancillary Office for a Period of 3 Years	20.5.2011	(1), (2), (3), (4)
2	A/YL-KTS/599	Temporary Warehouse and Ancillary Office and Open Storage (Power Generator, Machinery and Parts) Use for a Period of 3 Years	13.9.2013 on review	(1), (2), (3), (4)

Rejection Reasons

- (1) Not in line with the planning intention of the zone.
- (2) The application did not comply with the Town Planning Board PG-No. 13E in that there was no previous approval granted at the site and not compatible with the surrounding land uses
- (3) The application failed to demonstrate the development would not generate adverse landscape and drainage impacts
- (4) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications

Advisory Clauses

- (a) note DLO/YL, LandsD's comments that the Site comprises Government Land (GL) and an Old Schedule 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. The STW / STT holder(s) will need to apply to his office for modification of the STW/STT 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. 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;
- (b) 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;
- (c) note CHE/NTW, HyD's comments that HyD is not and shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road and Kam Shui Road;
- (d) follow the relevant environmental 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;
- (e) note DAFC's comments that there are mitigation planting areas for the Kam Tin Main Drainage Channel project along the eastern boundary of the Site, which are currently maintained by his department. The applicant should avoid disturbing the mitigation planting areas in order to preserve and protect the vegetation therein;
- (f) note CBS/NTW, BD's comments that if the existing structures are erected on leased land without approval of his department (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the 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 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. 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 application 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.