

**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.

**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: 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 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/TPB)</u>	<u>Approval Conditions</u>
1	A/YL-PH/351	Temporary Open Storage of Vehicles (Private Car, Lorry, Bus and Taxis) for a Period of 3 Years	22.12.2000 [revoked on 22.12.2001]	(2), (3), (4), (6), (10)
2	A/YL-PH/396	Proposed Temporary Open Storage of Vehicles Prior to Sale for a Period of 3 Years	26.4.2002 [revoked on 26.4.2003]	(2), (3), (4), (6), (10)
3	A/YL-PH/692	Proposed Temporary Open Storage of Building Materials and Vehicles for a Period of 3 Years	12.9.2014 [revoked on 12.12.2015]	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
4	A/YL-PH/728	Temporary Open Storage of Building Materials and Vehicles for a Period of 3 Years	13.5.2016 [revoked on 24.6.2016]	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
5	A/YL-PH/738	Temporary Open Storage of Vehicles and Landscape Plant Materials for a Period of 3 Years	9.12.2016	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)

Approval Conditions:

- (1) No reversing of vehicles into or out of the site are allowed
- (2) Submission and/or implementation of landscaping and/or tree preservation proposal(s)
- (3) Submission and/or implementation of drainage proposal(s)/ provision of drainage facilities/ the drainage facilities on the site should be maintained / submission of records of existing drainage facilities on the site
- (4) Reinstatement of the application site to an amenity area upon the expiry of the planning permission
- (5) No goods vehicles exceeding 30 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the site
- (6) Revocation of the planning permission if any of the specified approval condition is not complied with by the specified date/at any time
- (7) No dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities are allowed at the site
- (8) Restriction of operation hours on the site
- (9) Provision of fire extinguisher / submission of FSIs proposal and provision of FSIs

(10) Provision of boundary fencing of the site / maintenance of the existing boundary fence at the site

Rejected Application

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration</u> <u>(RNTPC/TPB)</u>	<u>Rejection</u> <u>Reasons</u>
1	A/YL-PH/460	Proposed Temporary Open Storage of Recyclable Metal for a Period of 3 Years	6.8.2004 (on review)	(1), (2), (3), (4)

Rejection Reasons:

- (1) The development was not in line with the planning intention of the "Residential (Group D)" zone. There was no strong justification in the submission for a departure from the planning intention
- (2) The development did not comply with the Town Planning Board Guidelines for "Application for Open Storage and Port back-up Uses" in that it was not compatible with the surrounding areas which were rural in character with scattered residential structures nearby
- (3) There was insufficient information in the submission to demonstrate that the development would not have adverse drainage impact on the surrounding areas

Similar applications within the same “R(D)” zone on the Pat Heung OZP

Approved Applications

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
1	A/YL-PH/574	Temporary Open Storage of Goods Vehicles for Sale for a Period of 3 Years	9.1.2009	(1), (2), (3), (4), (5), (8), (9), (10)
2	A/YL-PH/588	Temporary Open Storage of Building Materials for a Period of 3 Years	7.8.2009	(1), (2), (3), (4), (5), (8), (9), (10)
3	A/YL-PH/644	Renewal of Planning Approval for Temporary Open Storage of Building Materials for a Period of 3 Years	20.7.2012 [revoked on 7.6.2014]	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
4.	A/YL-PH/646	Temporary Open Storage of Goods Vehicles for Sale for a Period of 3 Years	7.9.2012	(1), (2), (3), (4), (5), (7), (8), (9), (10)
5.	A/YL-PH/705	Temporary Open Storage of Building Materials and Vehicles for Sale for a Period of 3 Years	14.11.2014	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
6.	A/YL-PH/718	Temporary Open Storage of Goods Vehicles for Sale for a Period of 3 Years	17.7.2015	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
7	A/YL-PH/757	Renewal of Planning Approval for Temporary Open Storage of Building Materials and Vehicles for Sale for a Period of 3 Years	27.10.2017	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
8	A/YL-PH/781	Renewal of Planning Approval for Temporary Open Storage of Goods Vehicles for Sale for a Period of 3 Years	1.6.2018	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14)

Approval Conditions

- (1) Restriction on operation hours
- (2) No dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities should be carried out at the site during the planning approval period
- (3) Setting back of the site to avoid encroachment on waterworks reserve at all times during the planning approval period
- (4) Submission and implementation of drainage proposal/ the existing drainage facilities should be maintained/ the submission of records of existing drainage facilities
- (5) The submission and implementation of tree preservation and landscape proposal / the existing landscape plantings/trees and vegetation on the site should be maintained
- (6) The provision/maintenance of boundary fence for the application site
- (7) The provision of fire extinguisher(s)
- (8) The submission and implementation of fire service installations proposal/provision of fire extinguisher(s)
- (9) Revocation clause on planning conditions
- (10) Reinstatement of the application site to an amenity area upon expiry of planning permission
- (11) No goods vehicles exceeding 16/24/30 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the site
- (12) No tree/shrub shall be planted within the Waterworks Reserve area at any time
- (13) A proper vehicular access/run-in between the site and the public road shall be maintained
- (14) No queueing back/reversing of vehicles onto/from public road is allowed / proper vehicular access/run-in between the Site and the public road should be maintained

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 temporary use with the concerned owner(s) of the Site;
- (b) note DLO/YL, LandsD's comments that the Site comprises 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 STW holder(s) will need to apply to his office for modification of the STW 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 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 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 the 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) 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 DEP;
- (e) note CE/MN of DSD's comments that the required condition record should include coloured photos showing the current condition of the drainage facilities and a layout plan indicating the locations of the photos taken. The submitted photos should cover all internal surface channels, catchpits, sand traps, manholes, terminal catch pits/manholes and the downstream discharge path as indicated on the submitted drainage proposal;
- (f) note D of FS's comments that the installation/ maintenance/ modification/ repair work of FSIs 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. The good practice guidelines for open storage sites in **Appendix VI** of the RNTPC Paper should be adhered to. To address the condition on the provision of fire extinguisher(s), the applicant should submit a valid fire certificate (FS251) to his department for approval.

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;

- (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, 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 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;
- (h) note DAFC's comments that the applicant should adopt appropriate measures to avoid polluting and disturbing the adjacent watercourse during operation; and
- (i) note CE/C, WSD's comments that the existing waterworks reserve (WWR) for existing raw water mains will be affected (**Plan A-2** of the RNTPC Paper). No structure shall be erected over this WWR and such area shall not be used for storage of car-parking purpose. The Water Authority (WA) and his officers and contractors, his or their workmen shall have free access at all times to the said area with necessary plant and vehicles for the purpose of construction, inspection, operation, maintenance and repair works. All other services across, through or under the WWR are required to seek authorization from the WA. No trees or shrubs with penetrating roots may be planted within the WWR or in the vicinity of the water main. Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.