

**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 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 Applications Covering the Site

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Rejection Conditions</u>
1	A/YL-PH/176	Temporary open storage of porcelain products/sanitary utensils for a period of 12 months	6.3.1998	(1), (2), (3)
2	A/YL-PH/267	Temporary open storage of porcelain products/sanitary utensils for a period of 12 months	26.3.1999	(2), (3)
3	A/YL-PH/310	Temporary open storage of porcelain products/sanitary utensils for a period of 3 years	14.1.2000	(2), (3), (4)
4	A/YL-PH/423	Temporary open storage of porcelain products/sanitary utensils for a period of 3 years	7.2.2003	(2), (3), (4)
5	A/YL-PH/512	Temporary open storage of porcelain products/sanitary utensils for a period of 3 years	3.2.2006	(1), (3), (4), (5), (6), (7), (8)
6	A/YL-PH/576	Renewal of planning approval for temporary “open storage of porcelain products/sanitary utensils” use under Application No. A/YL-PH/512 for a period of 3 years	23.1.2009 [revoked on 23.12.2011]	(3), (4), (6), (7), (8), (9), (10)
7	A/YL-PH/632	Renewal of planning approval for temporary “open storage of porcelain products/sanitary utensils” use under Application No. A/YL-PH/576 for a period of 3 years	20.1.2012	(3), (4), (7), (8), (9), (10), (11), (12)
8	A/YL-PH/709	Renewal of planning approval for temporary “open storage of porcelain products/sanitary utensils” for a period of 3 years	16.1.2015	(3), (4), (6), (7), (8), (9), (10), (11), (12)
9	A/YL-PH/764	Renewal of planning approval for temporary “open storage of porcelain products/sanitary utensils” for a period of 3 years	12.1.2018	(3), (4), (6), (7), (8), (9), (10), (11), (12), (13)

Approval Conditions:

- (1) Submission and implementation of landscape proposals within the specified time limit.
- (2) Provision of flood mitigation measures and drainage facilities within the specified time limit.
- (3) Upon expiry of the planning permission, the reinstatement of the application site to an amenity area.
- (4) If any of the planning conditions was not complied with during the planning approval period/by the specified date, the approval given should cease to have effect and shall on the same date be revoked without further notice.
- (5) The total covered storage area should not exceed 5508.2m².
- (6) Restriction on operation hour.
- (7) No workshop activities, vehicle repairing and maintenance activities should be carried out at the application site.
- (8) The drainage facilities implemented on site under the previous application should be maintained at all times during the approval period.
- (9) The existing trees and/or landscape planting on the site should be maintained at any time during the planning approval period.
- (10) Submission and implementation of fire services installations proposals within the specified time limit.
- (11) Submission of a record of the existing drainage facilities on the site within the specified time limit.
- (12) Provision of fire extinguisher(s) within the specified time limit.
- (13) No vehicle is allowed to queue back to or reverse onto/from public road at any time.

Rejected Application

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Rejection Conditions</u>
1	A/YL-PH/9	Proposed redevelopment of temporary structures and temporary storage of porcelain products for a period of 12 months	8.9.1995 on review	(1), (2), (3)

Rejection Reasons:

- (1) Not in line with the planning intention of the "AGR" zone.
- (2) Not compatible with the nearby residential developments
- (3) The approval of the application would set an undesirable precedent for similar applications which will lead to general degradation of the area.

Advisory Clauses

- (a) 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 contain the restriction that no structures are allowed to be erected without the prior approval of the Government. No permission is given for occupation of part of the GL (about 12m² subject to verification) included in the Site. Attention is drawn to the fact that any occupation of GL without Government's prior approval is not allowed. The STW holder(s) and the STT tenant will need to apply to his office for modification of the STW/STT conditions where appropriate, and the lot 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 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 the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application 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;
- (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 shall not be responsible for the maintenance of any access 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;
- (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 to minimise any potential environmental nuisance;
- (e) note CTP/UD&L, PlanD's comments that the applicant is reminded that approval of the planting application under Town Planning Ordinance does not imply approval of tree preservation/removal scheme under the Lease. The application should seek comments and approval from the relevant authority on the proposed tree works and compensatory planting proposal, where appropriate;
- (f) note CE/MN of DSD's comments that the applicant should inform relevant department if there is any change on the Site;
- (g) note CE/C of WSD's comments that existing water mains will be affected (**Plan A-2**) of this RNTPC paper. The developer shall bear the cost of any necessary diversion

works affected by the development. In case it is not feasible to diver the affected water mains, a waterworks reserve within 1.5 metres from the centreline of the water mains shown on **Plan A-2** of the RNTPC paper shall be provide to WSD. No structures shall be erected over this waterworks reserve and such area shall not be used for storage purposes. The Water Authority 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 laying, repairing and maintenance of water mains and all other services across, through or under it which the Water Authority may require or authorize. 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; and

- (h) note CBS/NTW, BD's comment that if the existing structures are erected on leased land without approval of the Buildings Department (BD) (not being a New Territories Exempted Houses), they are unauthorized under the Building Ordinance (BO) and should not be designated for any use under the application. 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 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 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.