

**Relevant Extract of Town Planning Board Guidelines for
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

Approved Applications

Application No.	Uses/Development	Date of Consideration	Approval Conditions
A/NE-FTA/76*	Temporary Open Storage of Construction Materials for a Period of 3 Years	15.2.2008 (on Appeal)	A1 - A3
A/NE-FTA/103*	Proposed Temporary Open Storage of Construction Materials for a Period of 3 Years	20.5.2011 (Revoked on 20.11.2011)	A3 - A16
A/NE-FTA/106	Proposed Temporary Open Storage of Construction Materials for a Period of 3 Years	2.9.2011 (Revoked on 2.6.2013)	A3 - A5, A7, A9 - A18
A/NE-FTA/139*	Proposed Temporary Open Storage of Construction Materials for a Period of 3 Years	25.7.2014	A3 - A5, A9 A13 - A16, A19 - A24
A/NE-FTA/160	Renewal of Planning Approval for Temporary "Open Storage of Construction Materials" for a Period of 3 Years	15.7.2016	A3 - A5, A19 - A20, A22 - A30

* Approved with conditions for a period of 2 years

Approval Conditions

- A1 Only concrete pipes could be stored on the application site.
- A2 The applicant was allowed to transport the concrete pipes stored or to be stored on the application site only by the use of light goods vehicles (i.e. under 5.5 tonnes) on the access road or any part thereof limited to three return trips per day between the hours of 8:30 a.m. and 6:30 p.m.
- A3 Revocation clause
- A4 No operation between 6:30 p.m. to 8:30 a.m. was allowed.
- A5 No operation on Sundays and public holidays was allowed.
- A6 Only concrete pipes could be stored on the application site.
- A7 No medium/heavy goods vehicles exceeding 5.5 tons, including container tractor/trailers, as defined in the Road Traffic Ordinance, were allowed for transportation of goods to and from the application site.

- A8 A maximum of 3 vehicle trips per day for transportation of concrete pipes to and from the application site was allowed.
- A9 The submission of drainage proposals.
- A10 The implementation of drainage proposals.
- A11 The submission of proposals for fire service installations and water supplies for fire-fighting.
- A12 The provision of fire service installations and water supplies for fire-fighting.
- A13 The submission of landscape proposal.
- A14 The implementation of the approved landscape proposal.
- A15 The submission of proposal for mitigation measures to the ecological sensitive receivers in the vicinity of the application site.
- A16 The implementation of proposal for mitigation measures to the ecological sensitive receivers in the vicinity of the application site.
- A17 A maximum of three vehicle trips per day for transportation of construction materials to and from the application site were allowed.
- A18 No storage or discharge of pesticide or toxicant, flammable or toxic solvents, petroleum oil or tar or any other toxic substances were allowed.
- A19 No medium/heavy goods vehicle exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance was allowed to be parked/stored on or enter/exit the site.
- A20 The peripheral fencing should be maintained on site.
- A21 The provision of drainage facilities.
- A22 The provision of fire extinguisher(s).
- A23 The submission of proposals for water supplies for fire-fighting and fire service installations.
- A24 The implementation of proposals for water supplies for fire-fighting and fire service installations.
- A25 The existing drainage facilities implemented should be maintained.
- A26 The existing mitigation measures to the ecological sensitive receivers in the vicinity of the site implemented should be maintained.
- A27 The existing landscape planting implemented should be maintained.
- A28 The submission of tree preservation proposal.
- A29 The implementation of tree preservation proposal.

Rejected Applications

Application No.	Proposed Developments	Date of Consideration	Rejection Reasons
A/DPA/NE-FTA/11	Container Trailer/Tractor Park	23.10.1992	R1 - R5
A/DPA/NE-FTA/13	Open Storage of Construction Materials & Equipment	4.12.1992	R1, R3, R5 - R8
A/DPA/NE-FTA/21	Open Storage of Construction Materials and Equipment	3.9.1993	R1, R5 - R6, R9 - R12
A/DPA/NE-FTA/25	Container Trailer Park	15.10.1993	R1, R6, R11, R13 - R15
A/NE-FTA/60	Temporary Wholesale Trade (Frozen & Chilled Meat Wholesale Centre) for a Period of 3 Years	21.11.2003	R16 - R18

Rejection Reasons

- R1 The proposed development was not in line with the planning intention for the area which was for appropriate forms of agricultural and rural activities to take place so as to avoid unwanted urban growth and to enhance the quality of the environment.
- R2 No indication was given to demonstrate that the proposed development would have insignificant adverse impacts on the environment and drainage of the area.
- R3 The vehicular traffic generated by the proposed development would aggravate traffic congestion along Man Kam To Road.
- R4 No provision of drainage facilities had been proposed in the submission.
- R5 No landscaping proposals had been included in the submission.
- R6 The proposed development was incompatible with the uses in the surrounding areas which were predominantly agricultural and rural in character.
- R7 No information had been included in the submission to demonstrate that the proposed development would have insignificant adverse impacts on the environment, traffic and drainage system of the area.
- R8 No proposal of drainage facilities had been included in the submission.
- R9 No information on the provision of on-site parking, loading/unloading facilities and manoeuvring spaces for goods vehicles had been included in the submission.
- R10 The vehicular traffic generated by the development would aggravate the traffic congestion

along Man Kam To Road and worsen the condition of the substandard van track leading from the site to Man Kam To Road.

- R11 No detailed proposals on drainage facilities had been included in the submission.
- R12 The approval of the application would set an undesirable precedent for other similar applications.
- R13 The development had aggravated the traffic congestion along Man Kam To Road and worsen the condition of the substandard van track leading from the application site to Man Kam To Road.
- R14 The development had generated severe noise and fugitive dust impacts on the nearby villages and no proposals on noise and dust mitigation measures had been included in the submission.
- R15 No detailed landscaping proposals had been included in the submission.
- R16 The access road leading to the application site was a sub-standard village track without footpath which was not suitable for use by large goods vehicles. There was insufficient information in the submission to demonstrate that the proposed development would not cause cumulative adverse traffic impact on the existing village track and the nearby road networks.
- R17 Located near to an abandoned meander, which was a committed ecological mitigation measure under the Main Drainage Channel for Fanling, Sheung Shui and Hinterland project, the proposed development might adversely affect the intended function of the ecological mitigation measure. There was insufficient information in the submission to demonstrate that the proposed development would not adversely affect the subject ecological mitigation measure.
- R18 The access road leading to the application site served as an inspection and maintenance access for the Nam Chung Aqueduct underneath it. There was no information in the submission to demonstrate that the proposed development would not adversely affect the integrity of the Nam Chung Aqueduct underneath the access road leading to the application site and the normal inspection and maintenance activities of the Water Supplies Department.

**Similar S.16 Applications for Open Storage in the vicinity of the
Application Sites within/partly within “Agriculture” Zone in the
Fu Tei Au and Sha Ling Area**

Rejected Application

Application No.	Uses/Development	Date of Consideration	Rejection Reasons
A/NE-FTA/142	Proposed Temporary Open Storage of Construction Materials for a Period of 3 Years	15.8.2014 (On Review)	R1 - R3

Rejection Reasons

- R1 The application was not in line with the planning intention of the "Agriculture" ("AGR") zone for the area which was primarily intended to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the submission to justify a departure from such planning intention, even on a temporary basis.
- R2 The application did not comply with the Town Planning Board Guidelines No. 13E in that there was no previous planning approval granted at the Site; there were adverse departmental comments on the application; and the applicant had failed to demonstrate that the development would have no adverse environmental impact on the surrounding area.
- R3 Approval of the application would set an undesirable precedent for similar applications within the "AGR" zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.

Recommended Advisory Clauses

- (a) to note the comments of DLO/N, LandsD as follows:
- (i) the Site comprises Lots 184 RP and 187 RP (Part) in D.D. 52 and adjoining Government land. The lots are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guaranteed right of vehicular access. The applicants should make their own arrangement for acquiring access. The Government shall accept no responsibility in such arrangement and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the proposed use;
 - (ii) the actual occupation area does not tally with the Site under application, in particular, Lot 186 RP in D.D. 52, which is sandwiched between the application lots, is also occupied and enclosed on Site; and
 - (iii) the existing structures on Site were erected without approval from his office. The aforesaid structures are not acceptable under the Leases concerned. His office reserves the right to take enforcement actions against the aforesaid structures;
 - (iv) the total built-over area of the aforesaid structures do not tally with the ones mentioned in the planning application. The aforesaid structures are not acceptable under the Leases concerned and his office reserves the right to take necessary lease enforcement and land control actions against the aforesaid structures;
 - (v) the Government land (GL) adjacent to the Site is being occupied without approval from his office. Some portions of the adjoining GL were fenced off by hoardings without approval. It was not acceptable and the applicants should cease the illegal occupation and remove those hoardings at their own cost. His office reserves the right to take land control actions against the unauthorized occupation of GL; and
 - (vi) if the planning application is approved, the owners of the lots concerned shall apply to his office for a Short Term Waiver (STW) and Short Term Tenancy (STT) to cover all the actual occupation area. The applications for STW and STT will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW/STT are approved, their commencement date would be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by his office;
- (b) to note the comments of C for T that the vehicular access to the Site is via an unnamed local track which is not under TD's management. In this regard, the land status of the access leading to the Site should be checked with the other lands authority. The management and maintenance responsibilities of the same access should also be clarified with the relevant lands and maintenance authorities accordingly;

(c) to note the comments of CE/MN, DSD as follows:

- (i) that the Site is in an area where no public sewerage connection is available;
- (ii) the applicant should make reference to the following general requirements in the drainage submission:
 - surface channel with grating covers should be provided along the site boundary;
 - a drainage plan should be provided clearly showing the size, levels and routes of the proposed drainage. The details (invert level, gradient, general sections etc.) of the proposed drain / surface channel, catchpits and the discharge structure shall be provided;
 - the cover levels of proposed channels should be flush with the existing adjoining ground level;
 - a catchpit with covers should be provided where there is a change of direction of the channel / drain. The details of the catchpit with covers shall be provided;
 - catchpits with sand trap shall be provided at the outlets of the proposed drainage system. The details of the catchpit with sand trap should be provided;
 - the applicant should check and ensure that the existing drainage downstream to which the proposed connection will be made have adequate capacity and satisfactory condition to cater for the additional discharge from the Site. The applicant should also ensure that the flow from the Site will not overload the existing drainage system;
 - the applicant is reminded that where walls are erected or kerbs are laid along the boundary of the same, peripheral channels should be provided on both sides of the walls or kerbs, and / or adequate openings should be provided at the walls / kerbs to allow existing overland flow passing through the Site to be intercepted by the drainage system of the Site with details to be agreed by DSD, unless justified not necessary;
 - for those existing drainage facilities to which the applicant proposed to discharge the storm water from the Site not maintained by DSD, the applicant should identify the owners of the existing drainage facilities to which the proposed connection will be made and obtain consent from the owners prior to commencement of proposed works;
 - the applicant is reminded that all existing flow paths as well as the run-off falling onto and passing through the Site should be intercepted and disposed of via proper discharge points. The applicant shall also ensure that no works, including any site formation works, shall be carried out as may adversely interfere with the free flow condition of the existing drains, channels and watercourses on or in the vicinity of the Site any time during or after the works;
 - the proposed drainage works, whether within or outside the site boundary, should be constructed and maintained by the applicant properly and rectify the system if it is found to be inadequate or ineffective during operation at his/her own expense;

- for works to be undertaken outside the lot boundary, the applicant should obtain prior consent and agreement from DLO/N and/or relevant private lot owners;
- the applicant should make good all the adjacent affected areas upon completion of the drainage works;
- the applicant shall allow all time free access for the Government and its agent to conduct site inspection on his completed drainage works;
- the applicant and the successive lot owners shall allow connections from the adjacent lots to the completed drainage works on Government Land when so required; and
- photos should be submitted clearly showing the current conditions of the areas and the existing drainage/flowpaths around the Site, the proposed drainage from the Site to the downstream existing water courses and the existing watercourse at about 20m intervals. The locations of the camera and the direction of each photo should also be indicated on a plan;

(d) to note the comments of D of FS as follows:

- (i) to address the approval condition on provision of fire extinguisher(s), the applicant should submit certificate(s) under Regulation 9(1) of the Fire Service (Installations and Equipment) Regulations (Chapter 95B) to his department for compliance of condition;
- (ii) if covered structures (e.g. container-converted office, temporary warehouse and temporary shed used as workshop) are erected within the Site, FSIs will need to be installed;
- (iii) in such circumstances, the applicants are required to submit the relevant layout plans to his department incorporated with the proposed FSIs for approval. In preparing the submission, the applicants should note the following points:
 - the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy;
 - the location of the proposed FSIs and the access for emergency vehicles should be clearly marked on the layout plans; and
 - attached good practice guidelines for open storage should be adhered to; and
- (iv) the applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans;

(e) to note the comments of CTP/UD&L, PlanD as follows:

- (i) the approval of the application does not imply approval of tree works such as pruning, transplanting and felling under the lease. Tree removal applications should be submitted direct to DLO/N, LandsD for approval; and
- (ii) to refer to the following materials published by the Development Bureau for general

tree maintenance and tree risk management:

- i. Pictorial Guide for Tree Maintenance:
http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf;
- ii. Handbook on tree Management:
http://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html;
- iii. Tree Risk Assessment and Management Arrangement:
http://www.greening.gov.hk/tc/tree_care/tra_arrangements.html;
- iv. Minimising Tree Risks:
http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Chinese_leaflet_Big_font_size_v1_2012_03_29.pdf; and
- v. Pictorial Guide for Tree Maintenance to Reduce Tree Risks:
[http://www/greening.gov.hk/filemanager/content/pdf/tree_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk\(eng\).pdf](http://www/greening.gov.hk/filemanager/content/pdf/tree_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk(eng).pdf);

(f) to note the comments of CBS/NTW, BD as follows:

- (i) if the existing structures are erected on leased land without approval of the BD (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;
- (ii) before any new building works (including temporary buildings/structures and containers etc.) 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;
- (iii) in connection with (c) above, 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)Rs) respectively;
- (iv) if the Site does not abut 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)Rs at the building plan submission stage; and
- (v) formal submission under BO is required for any proposed new works, including any temporary structures. Detailed comments under the BO will be provided at the building plan submission stage; and

(g) to follow the environmental mitigation measures as set out in the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the DEP in order to minimise any possible environmental nuisances.