

**Extract of 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)**

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: 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. 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, planning permission could be granted on a temporary basis up to a maximum period of 3 years;
 - (c) Category 3 areas: Applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. In that connection, 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. 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, planning permission could be granted on a temporary basis up to a maximum period of 3 years; and
 - (d) Category 4 areas: Applications for open storage and port back-up uses 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, 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 merits.

- (e) Taking into account the increasing demand for cross-boundary car parking facilities, applications for cross-boundary parking facilities at suitable sites in San Tin area, particularly near the existing cross-boundary link in Lok Ma Chau, may also be considered. Application of such nature will be assessed on its own merits, including its nature and scale of the proposed use and the local circumstances, and subject to satisfactory demonstration that the proposed use would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas, and each case will be considered on its individual merits.
2. In assessing applications for open storage and port back-up uses, the other major relevant assessment criteria are also summarised as follows:
- (a) 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;
 - (b) adequate screening of the sites through landscaping and/or fencing should be provided at the periphery of the site within the boundary, especially where sites are located adjacent to public roads or are visible from surrounding residential areas;
 - (c) there will be a general presumption against development on sites of less than 2,000 m² for port back-up uses, and below 1,000 m² for open storage 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 and concentrate activities within appropriate surroundings, thus minimising sprawl over countryside areas and reducing travel trips;
 - (d) 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;
 - (e) there is a general presumption against conversion of agricultural land and fish ponds to other uses on an ad-hoc basis in rural areas, 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, the Board may refuse to grant permission, or impose a shorter compliance period for the approval conditions, notwithstanding other criteria set out in the Guidelines are complied with.

**Similar S.16 Applications for Warehouse & Open Storage within
the “Agriculture” zone in the vicinity of the Site
in the Fu Tei Au and Sha Ling Area**

Rejected Application

Application No.	Uses/ Development	Date of Consideration	Rejection Reasons
A/NE-FTA/135	Proposed Temporary Open Storage of Building Materials with Ancillary Warehouse and with Parking Facilities for Lorries and Private Cars for a Period of 3 Years	31.10.2014	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 for 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; the proposed development was not compatible with the surrounding land uses which were predominantly rural in character; there were adverse departmental comments on the application; and the applicant failed to demonstrate that the development would have no adverse drainage, environmental and landscape impacts on the surrounding areas.
- R3 Approval of the application would set an undesirable precedent for similar applications within the same "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) prior planning permission should have been obtained before commencing the applied use at the Site;
- (b) to note the comments of the District Lands Officer/North, Lands Department as following:
 - (i) the Site comprises Lots Nos. 360 AB, 360C S.A and 360C RP in D.D. 87 which old Schedule lots held under the Block Government lease (demised for agriculture use) without any guaranteed right of access. The applicants should make their own arrangement, and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the proposed use;
 - (ii) the existing structures on the Site were erected without approval from his office which are not acceptable under the Leases concerned. His office reserves the right to take enforcement actions against the aforesaid structures; and
 - (iii) should the application be approved, the owners of the lots concerned shall apply to his office for a Short Term Waiver (STW) covering all the actual occupation area. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW is approved, its commencement date would be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fees as considered appropriate by his office;
- (c) to note the following comments of the Commissioner for Transport:
 - (i) the applicant should provide the following transport-related information for his further consideration:
 - (a) the applicant shall justify the adequacy of the parking spaces and loading/unloading spaces so provided by relating to the number of vehicles visiting the Site;
 - (b) the applicant should advise the width of the vehicular access;
 - (c) the vehicular access should be no less than 7.3m wide;
 - (d) the applicant shall demonstrate the satisfactory manoeuvring of vehicles entering to and exiting from the Site, manoeuvring within the Site and into/out of the parking and loading/unloading spaces, preferably using the swept path analysis;
 - (e) the applicant shall advise the management/control measures to be implemented to ensure no queuing of vehicles outside the Site;
 - (f) the applicant shall advise the provision and management of pedestrian facilities to ensure pedestrian safety; and

- (g) the vehicular access between the Site and Man Kam To Road is not managed by TD. The applicant should seek comment from the responsible party;
- (d) to note the comment of the Chief Engineer/Mainland North, Drainage Services Department that the Site is in an area where no public sewerage connection is available;
- (e) to note the comments of the Director of Agriculture, Fisheries and Conservation that the applicant should clarify if the proposed development would cause any impact to the watercourses;
- (f) to note the following comments of the Chief Building Surveyor/New Territories West, Buildings Department:
 - (i) before any new building works are to be carried out on the Site, the prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the Buildings Ordinance (BO);
 - (ii) for UBW erected on leased land, enforcement action may be taken by the BA 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;
 - (iii) any temporary shelters or converted containers for storage or washroom or workshop or other uses are considered as temporary buildings are subject to the control of Part VII of the Building (Planning) Regulations (B(P)Rs);
 - (iv) the Site shall be provided with means of obtaining access thereto from a street under the B(P)R 5 and emergency vehicular access shall be provided under the B(P)R 41D;
 - (v) if the Site is not abutting on a specified street having a width not less than 4.5m, the development intensity shall be determined by the BA under B(P)R 19(3) at building plan submission stage; and
 - (vi) formal submission under the BO is required for any proposed new works, including any temporary structures. Detailed comments under BO will be provided at the building plan submission stage;
- (g) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that for provision of water supply to the development, the applicant may need to extend the inside services to the nearest suitable Government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards;
- (h) to note the following comments of the Director of Fire Services:
 - (i) in consideration of the design/ nature of the proposed use, the applicant is advised to submit relevant layout plans incorporated with the proposed fire service installations

(FSIs) to his satisfaction;

- (ii) the applicant should be advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; the location of where the proposed FSIs to be installed should be clearly marked on the layout plans; and good practice guidelines for open storage should be adhered to;
- (iii) the applicant should submit a valid fire certificate (FS 251) to his department for approval; and
- (iv) the applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans; and

(i) to note the following comments of the Director of Environmental Protection:

- (i) in view of the nearby watercourses, the applicant is advised to strictly observe all relevant pollution control ordinances, particularly on waste management and disposal, follow relevant measures given in the EPD's latest "Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses" (CoP), and put in place necessary precautionary/pollution control measures to prevent any pollution of nearby watercourses as a result of the operational and construction activities. Best management practice should be adopted to avoid refuse and other pollution from entering the surface runoff and ponds and river; and
- (ii) there is no existing public sewer in the vicinity of the Site at this stage. Although sewage generation is not anticipated based on the information from the applicant, in any event that there is any sewage generated from the proposed use, the applicant shall have to provide his own effective sewage treatment and disposal measures to cater for any sewage arising from the operation of the application. If septic tank and soakaway is proposed, its design and construction should follow the requirements of ProPECC 5/93. The Percolation Test and Minimum clearance requirements stated in ProPECC PN5/93 should be fully complied with and duly certified by consulting engineer / Authorised Person (AP).