

**Relevant 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. 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: Favourable consideration will normally be given to applications with 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;
  - (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; and

- (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 m<sup>2</sup> for port back-up uses, and below 1,000 m<sup>2</sup> 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.

**Previous S.16 Applications**

**Approved Applications**

| <b><u>Application No.</u></b> | <b><u>Uses/ Development</u></b>  | <b><u>Date of Consideration</u></b>                                       | <b><u>Approval Conditions</u></b>    |
|-------------------------------|--|---|--------------------------------------|
| A/NE-FTA/22                   | Temporary Open Storage of Vehicles and Vehicle Park for a Period of 12 Months.                 | 25.9.1998   | A1, A6, A10 & A17                    |
| A/NE-FTA/32                   | Temporary Open Storage of Containers & Repair Workshop for 3 Years                             | 28.1.2000<br>(revoked on 28.10.2000)                                      | A6, A15, A17 & A18                   |
| A/NE-FTA/41                   | Temporary Open Storage of Containers and Vehicle Park for a Period of 3 Years                  | 9.11.2001<br>(on review)<br>(approved for a period of 12 months)          | A2, A3, A6, A11, A15, A17, A18 & A19 |
| A/NE-FTA/65                   | Temporary Open Storage of Container Vehicles and Vehicle Park for a Period of 3 Years          | 10.9.2004<br>(approved for a period of 1 year)<br>(revoked on 10.8.2005)  | A2, A3, A6, A13, A17, A18 & A20      |
| A/NE-FTA/72                   | Temporary Container Vehicle Park and Container Vehicle Repair Workshop for a Period of 3 Years | 17.2.2006<br>(approved for a period of 2 years)<br>(revoked on 17.5.2006) | A4, A5, A7, A13, A17, A18 & A20      |

|              |  |   |   |
|--------------|--|---|---|
| A/NE-FTA/100 | Temporary Container Vehicle Park and Logistic Loading and Unloading Area for a Period of 3 Years | 23.4.2010<br>(approved for a period of 2 years)<br>(revoked on 23.7.2010) | A9, A11, A12, A18, A21, A24, A26 & A27      |
| A/NE-FTA/110 | Temporary Cargo Handling and Forwarding Facility (Logistics Centre) for a Period of 3 Years      | 4.11.2011   | A7, A11, A12, A18, A22, A24, A25, A26 & A27 |
| A/NE-FTA/149 | Temporary Cargo Handling and Forwarding Facility (Logistics Centre) for a Period of 3 Years      | 6.2.2015  | A8, A14, A16, A17, A18, A23, A24, A26 & A27 |
| A/NE-FTA/181 | Temporary Cargo Handling and Forwarding Facility (Logistics Centre) for a Period of 3 Years      | 15.6.2018   | A16, A18, A23, A24, A26, A27, A28 & A29     |

### **Approval Conditions:**

- A1 The provision of parking and loading/unloading spaces, vehicular manoeuvring space and vehicular access
- A2 The submission of parking, loading/unloading, vehicular manoeuvring and vehicular access proposals
- A3 The provision of parking, loading/unloading, vehicular manoeuvring and vehicular access facilities
- A4 The submission of parking, loading/unloading and vehicular access proposals
- A5 The provision of parking, loading/unloading and vehicular access facilities
- A6 The submission and implementation of landscaping proposals
- A7 The submission and implementation of landscape and tree preservation proposals

- A8 The implementation of tree preservation and landscape proposals
- A9 The submission and the implementation of landscaping and tree maintenance proposal
- A10 The submission of a drainage impact assessment and implementation of mitigation measures
- A11 The submission of drainage proposals
- A12 The implementation of the drainage proposals
- A13 The existing drains within the application site should be maintained
- A14 The existing drainage facilities on the site should be maintained
- A15 The provision of drainage facilities
- A16 The submission of a condition record of the existing drainage facilities on-site
- A17 The reinstatement clause
- A18 The revocation clause
- A19 The paving of the site
- A20 The paving within the application site should be maintained
- A21 No night-time operation between 10:00 p.m. and 8:00 a.m. was allowed
- A22 No night-time operation between 8:00 p.m. and 8:00 a.m. was allowed
- A23 No operation between 8:00 p.m. and 8:00 a.m. on Mondays to Saturdays was allowed
- A24 No operation on Sundays and public holidays was allowed
- A25 The existing metal fencing at the site should be maintained
- A26 The submission of proposals for water supplies for fire-fighting and fire service installations
- A27 The provision of water supplies for fire-fighting and fire service installations
- A28 The maintenance of the existing drainage facilities on the site
- A29 The maintenance of all trees on the site in good condition

**Similar S.16 Applications for Logistic Centre  
in the vicinity of the application site within the “Agriculture” zone  
in the Fu Tei Au and Sha Ling Area**

**Rejected Applications**

| <b><u>Application No.</u></b> | <b><u>Uses/ Development</u></b>  | <b><u>Date of Consideration</u></b> | <b><u>Rejection Reasons</u></b> |
|-------------------------------|--|-------------------------------------|---------------------------------|
| A/NE-FTA/150                  | Proposed Temporary Covered Goods Reshuffling Points for a Period of 3 Years                                    | 24.7.2015<br>(on review)            | R1, R2, R3                      |
| A/NE-FTA/151 <sup>^</sup>     | Proposed Temporary Goods Reshuffling Yards for a Period of 3 Years   | 24.7.2015<br>(on review)            | R1, R2, R3                      |
| A/NE-FTA/156 <sup>^</sup>     | Proposed Temporary Unloading/Loading Platforms for a Period of 3 Years   | 9.10.2015                           | R1, R2, R3                      |
| A/NE-FTA/173                  | Proposed Temporary Logistics Yard, Open Storage of Containers and Tyre Repair Workshop for a Period of 3 Years | 28.7.2017                           | R3, R4, R5                      |

Remarks

<sup>^</sup>: Application nos. A/NE-FTA/151 and A/NE-FTA/156 are at the same location

**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; 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 had failed to demonstrate that the development would have no adverse environmental and landscape and/or drainage and/or traffic impacts on the surrounding areas.

- R3 The 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.
- R4 The proposed temporary use under application was not in line with the planning intention of the "Agriculture" ("AGR") zone for the Fu Tei Au and Sha Ling area, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong justification in the submission for a departure from such planning intention, even on a temporary basis
- R5 The application did not comply with the Town Planning Board Guidelines No. 13E in that there was no previous approval of open storage use granted for the site and no exceptional circumstance to justify sympathetic consideration of the application; there were adverse departmental comments on the application; and the applicants failed to demonstrate that the proposed development would not cause adverse traffic, environmental and landscape impacts on the surrounding areas

**Recommended Advisory Clauses**

- (a) to note the following comments of the District Lands Officer/North, Lands Department:
- (i) the Site comprises private lots, namely Lots 40 RP (Part), 404 S.A (Part), 408 S.A RP (Part), 408 S.B RP (Part), 409, 410 (Part), 413 (Part), 414 (Part), 416 (Part), 417 RP (Part), 435, 436, 437 RP in D.D. 89 and adjoining Government land (GL). The lots are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guarantee of right of access. The applicant should make his own arrangement for acquiring access to the Site and there is no guarantee that any adjoining GL will be allowed for vehicular access to the Site for the proposed use;
  - (ii) Lot 416 (Part) in D.D. 89 is partially covered by Short Term Waiver (STW) No. 1249 for the purpose of ancillary use to a container yard while a minor portion of GL within the Site is covered by Short Term Tenancy (STT) No. 1469 for the purpose of storage;
  - (iii) it is noted that the total built-over area of the existing structures on Site is larger than the proposed parameters mentioned in the submission. They are erected without approval of his office and not acceptable under the lease concerned. As such, his Office issued warning letters against the unauthorized structures erected on eight application lots (i.e. Lots 40 RP, 404 S.A, 408 S.A RP, 408 S.B RP, 414, 435, 436 and 437 RP in D.D. 89) and registered them in Land Registry in 2016 pending further lease enforcement action to be taken;
  - (iv) as some of the adjoining GL is being illegally occupied without approval from his office, his office reserves the right to take land control action against the unauthorized occupation of GL; and
  - (v) should the application be approved, the owners of the lots concerned shall apply to his office for STW and STT covering all the actual occupation area and structures concerned. The application for STW and STT will be considered by the Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW and 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 Commissioner for Transport that the vehicular access between the Site and Man Kam To Road is not managed by his department. The applicant should seek comment from the responsible party;
- (c) to note the comments of the Chief Highway Engineer/New Territories East, Highways Department that the vehicular access leading from Man Kam To Road to the Site is not maintained by HyD;
- (d) to note the following comments of the Director of Environmental Protection:
- (i) the applicant is advised to follow EPD's latest "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites (CoP)"; and



- (ii) there is no existing public sewer in the vicinity of the Site. 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);
- (e) to note the following comments of Chief Engineer/Mainland North, Drainage Services Department:
- (i) the applicant should maintain those existing drainage facilities properly and rectify those facilities if it is found inadequate/ineffective during operation to his satisfaction or the Board; and
  - (ii) the Site is in an area where no public sewerage connection is available;
- (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 unless they are exempted building works or commenced under the simplified requirement under the Minor Works Control System. Otherwise they are Unauthorized Building Works (UBWs). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the 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 other uses are considered as temporary buildings which are subject to the control of Part VII of the Building (Planning) Regulations (B(P)R);
  - (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 B(P)R 41D;
  - (v) if the Site is not abutting on a specified street having a width not less than 4.5m wide, the development intensity shall be determined by the BA under B(P)R 19(3) at the building plan submission stage; and
  - (vi) formal submission under the BO is required for any proposed new works, including any temporary structures. Detailed comments will be given at the building plan submission stage; and

- (g) to note the following comments of the Director of Fire Services as follows:
- (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 and the location of where the proposed FSI to be installed should be clearly marked on the layout plans; and
  - (iii) 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 the general building plans.