

**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 Applications within the same “Agriculture” or
“Village Type Development” zones
on the Kau Lung Hang Outline Zoning Plan**

Rejected Applications

Application No.	Zoning(s)	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-KLH/280	“V”	Temporary Open Storage of Construction Materials and Machineries for a Period of Three Years	16/11/2001	R1, R5, R15 - R16
A/NE-KLH/285	“AGR”	Temporary Open Storage of Vehicles and All Materials Except Hazardous Materials for a Period of Three Years	12/4/2002	R1 - R5
A/NE-KLH/295	“V”	Temporary Open Storage for Construction Materials and Machinery for a Period of Three Years	04/10/2002 (Review)	R1, R5, R17 - R18
A/NE-KLH/306	“V”	Temporary Open Storage of Construction Materials for a Period of Three Years	21/03/2003	R1, R5, R17 - R19
A/NE-KLH/320	“V”	Temporary Open Storage of Construction Materials for a period of Three years	19/09/2003	R1, R5, R18 – R20
A/NE-KLH/327	“AGR”	Temporary Open Storage of Building Materials and Workshop for Minor Touching Up and Finishing Works of Building Materials for a Period of Three Years	4/2/2005 (Review)	R1, R5 - R8
A/NE-KLH/342	“AGR”	Temporary Open Storage of Building Materials for a Period of Three Years	11/11/2005	R1, R5, R8 - R9
A/NE-KLH/353	“AGR”	Temporary Open Storage of Building Materials for a Period of One Year	16/3/2007 (Review)	R1, R5, R10 – R11
A/NE-KLH/396	“AGR”	Temporary Open Storage of Vehicles for Sale Purpose with Ancillary Vehicle Repairing Workshop for a Period of Three Years	30/4/2010 (Review)	R5, R12 – R14

Rejection Reasons

- R1. The application/subject site fell within an area zoned "Agriculture" ("AGR"). The planning intention of the "AGR" zone was to retain and safeguard 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. No strong justification had been provided for a departure from the planning intention, even on a temporary basis.
- R2. There was no information in the submission to demonstrate that the proposed use would not have adverse environmental impacts, in particular noise nuisance, on the domestic structures in the vicinity.
- R3. The vehicular access as proposed by the applicant would result in sightline problem, thereby imposing danger to the safety of drivers and pedestrians.
- R4. The application site encroached upon the land resumption limit of the project "Widening of Tolo/Fanling Highway between Island House and Fanling", which would commence in mid-2003. The approval of the application would jeopardise the implementation of the road widening project.
- R5. The approval of the application would set an undesirable precedent for other similar applications. The cumulative impacts of approving such applications would result in a general degradation of the environment in the area.
- R6. There was insufficient information in the submission to demonstrate that the development located within water gathering grounds would not cause adverse impact on water quality in the area.
- R7. There was insufficient information in the submission to demonstrate that the development would not cause environmental impacts on the village houses and domestic structures in the nearby areas.
- R8. There was insufficient information in the submission to demonstrate that the development would not increase the flooding risk of the nearby areas.
- R9. The development was not in compliance with Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses in that there was no previous planning approval granted to the application site, there was no technical assessment in the submission to demonstrate that the proposed temporary open storage use would not generate adverse environmental impact on the surrounding areas, the development was located within the water gathering grounds and there was insufficient information in the submission to demonstrate that the development would not cause adverse impact on the water quality in the area.
- R10. The development was not in compliance with Town Planning Board Guidelines No. 13D for "Application for Open Storage and Port Back-up Uses" in that there was no previous planning approval for similar open storage use granted to the application site. There was no technical assessment in the submission to demonstrate that the temporary open storage use would not generate adverse impacts on the surrounding areas and there were adverse comments from concerned Government departments.

- R11. There was insufficient information in the submission to demonstrate that the development would not increase the flooding risk of the nearby areas, cause adverse impact on the water quality in the WGG; cause adverse traffic, environmental and visual impacts to the surrounding areas. Moreover, the site encroached upon the Water Supplies Department's upper indirect WGGs and partially encroached upon the no blasting zone of Tau Pass Culvert. The development might cause potential damages to the Tau Pass Culvert.
- R12. The development was not in compliance with the TPB Guidelines No.13E for "Application for Open Storage and Port Back-up Uses" in that there was no previous planning approval for similar open storage use granted to the application site. There was no technical assessment in the submission to demonstrate that the temporary open storage use would not generate adverse impacts on the surrounding areas and there were adverse comments from concerned Government departments and local objections on the application.
- R13. The application site fell within the upper indirect water gathering ground (WGG) and the development could have material increase in pollution effect within the WGG.
- R14. The application was not in line with the planning intention of the "AGR" zone, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. The "AGR" zone 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 current submission for a departure from the planning intention, even on a temporary basis.
- R15. There was no information in the submission to demonstrate that the proposed use would not have adverse noise impact on the residential developments in the vicinity.
- R16. There was insufficient information in the submission to demonstrate that the proposed use would not have adverse traffic impact on the surrounding areas.
- R17. The proposed development at the application site was not compatible with the residential developments in the vicinity.
- R18. There was insufficient information in the submission to demonstrate that the proposed use would not have adverse traffic and noise impacts on the surrounding areas.
- R19. The application site fell partly within an area zoned "Village Type Development" ("V"). The planning intention of the "V" zone was to demarcate both the existing recognized villages and the land considered suitable for village expansions. It also intended to concentrate development within the "V" zones for a more orderly development pattern, economic and efficient use of land and provision of infrastructure and services. No strong justification had been provided for a departure from the planning intention, even on a temporary basis.
- R20. The development under application 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 residential developments in the vicinity; there was no previous planning approval granted to the application site; there was no technical

assessment in the application to demonstrate that the proposed use would not generate adverse environmental and traffic impacts on the surrounding areas and adverse comments from the Government departments had been received.

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/Tai Po, Lands Department (DLO/TP, LandsD) that:
 - (i) the lots are held under Block Government Lease demised for agricultural purpose. No structure shall be erected on the lots without the prior approval from LandsD;
 - (ii) there is no guarantee to the grant of a right of way to the Site or approval of the emergency vehicular access (EVA) thereto; and
 - (iii) the lot owners are required to submit an application for Short Term Waiver (STW) to LandsD should they wish to erect any structure on the Site. However, there is no guarantee at this stage that STW application would be approved. If the STW application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD including the payment of waiver fee and administrative fees as considered appropriate;
- (c) to note the comments of the Commissioner for Transport (C for T) that:
 - (i) the applicant should provide the following information for his consideration:
 - (1) the estimated traffic flow of the application with justifications;
 - (2) demonstrate the satisfactory maneuvering of vehicles entering to and exiting from the Site and maneuvering within the Site, preferably using swept path analysis;
 - (3) the number of car parking spaces and loading/unloading spaces to be provided and justify the adequacy of the parking spaces so provided by relating to the number of vehicles visiting the Site;
 - (4) the proposed vehicular ingress/egress should be of no less than 7.3m in width;
 - (5) the management/control measures to be implemented to ensure no queuing of vehicles outside the Site; and
 - (6) the provision and management of pedestrian facilities to ensure pedestrian safety; and
 - (ii) the vehicular access between Tai Wo Service Road West and the Site is not managed by Transport Department (TD). The applicant shall seek agreement/comment from the responsible party for the management and maintenance measures to be implemented for the vehicular access;

- (d) to note the comments of the Director of Environmental Protection (DEP) that the applicant should follow the latest 'Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses' to minimize any possible environmental nuisance;
- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that:
 - (i) public sewers are available for connection in the vicinity of the Site. The applicant should follow the established procedures and requirements for connecting sewers from the Site to the public sewerage systems. A connection proposal should be submitted for approval beforehand. Moreover, the sewerage connection will be subject to DSD's technical audit, for which an audit fee will be charged; and
 - (ii) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought;
- (f) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) that:
 - (i) the Site is hard paved and in operation as carpark and open storage. Existing trees in fair to good condition are observed along the northern and western boundaries. Since there is no fixed location for construction materials, machinery and containers and private car park, the applicant should take necessary measures to prevent any disturbance to the existing trees within the Site; and
 - (ii) a public footbridge is found to the immediate east of the Site and adverse visual impact due to the applied use is anticipated, hence an effective screen planting should be provided as a buffer along the site boundary.
- (g) to note the comments of the Director of Fire Services (D of FS) that:
 - (i) the applicant should submit certificate(s) under Regulation 9(1) of the Fire Service (Installations and Equipment) Regulations (Chapter 95B) to Fire Services Department (FSD) for compliance with the approval condition on the provision of fire extinguishers;
 - (ii) if covered structures (e.g. container-converted office, temporary warehouse and temporary shed used as workshop) are erected within the Site, fire service installations (FSIs) will need to be installed;
 - (iii) except where building plan is circulated under the Centralized Processing System of Buildings Department, the applicant is required to send the relevant layout plans to FSD incorporated with proposed FSIs for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and the locations of the proposed FSIs and the access for emergency vehicles should be clearly marked on the layout plans; and
 - (iv) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans. The applicant will need to subsequently provide such FSIs according to the approved proposal;

- (h) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that:
- (i) the vehicle park shall be surrounded by kerbs and drains. Drainage traps such as grease traps and petrol interceptors shall be installed at each of the drainage outlets and shall be under proper maintenance. All such drainage traps shall have sufficient capacity to ensure the proper collection and disposal of fuel and lubricants; and
 - (ii) the applied use should be located as far away from the water course as possible. No discharge of effluent or foul water into adjoining land, stormwater drain, channel, stream or river course is allowed. All solid waste and sludge arising from the operation of the applied use shall be disposed of properly outside Site and the water gathering grounds (WGG). Control measures should be implemented to prevent oil leakage or chemical spillage within the WGG. Oil and grease decontamination kit such as absorbent pads shall be made available by the applicant to decontaminate any oil leakage or spillage in the course of operation. No chemicals including laticidal oil, rodenticide and fertilizers shall be used without prior approval from Water Authority. The use and storage of pesticides, toxicants, flammable solvents, tar and petroleum oil are strictly prohibited within the WGG;
- (i) to note the comments of the Director of Electrical and Mechanical Services (DEMS) that:
- (i) there are high pressure and immediate pressure underground town gas transmission pipelines (running along Tai Wo Service Road West) in the vicinity of the Site. The applicant shall liaise with the Hong Kong and China Gas Company Limited in respect of the exact locations of existing or planned gas pipes/gas installations in the vicinity of the Site and any required minimum set back distance away from them during the design and construction stages of development; and
 - (ii) the applicant is required to observe the Electric and Mechanical Services Department (EMSD)'s requirements on the 'Avoidance of Damage to Gas Pipes 2nd Edition'.