

**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 1,000m<sup>2</sup> for open storage uses and 2,000m<sup>2</sup> 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.

**Similar S.16 Application for Temporary Open Storage  
in the Vicinity of the Application Site within/partly within  
the “Agriculture” Zone or the “Village Type Development” in the  
Luk Keng and Wo Hang Area**

**Rejected Application**

<b>Application No.</b>	<b>Uses/Developments</b>	<b>Date of Consideration</b>	<b>Rejected Reasons</b>
A/NE-LK/81	Proposed Temporary Open Storage (Leasing Containers for Storage Use) for a Period of 3 Years	13.12.2013	R1 – R4

**Rejected Reasons :**

- R1 The application was not in line with the planning intention of the "Agriculture" ("AGR") zone which was primarily to retain and safeguard good quality 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. The planning intention of "Village Type Development" ("V") zone was to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone was primarily intended for development of Small Houses by indigenous villagers. 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 (TPB) Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No.13E) in that there was no previous planning approval for open storage use granted at the site; there were adverse comments from the relevant government departments and local objections against the application; and the applicant had failed to demonstrate that the proposed development would have no adverse traffic, environmental and landscape impact on the surrounding areas.
- R3 The development for temporary open storage (leasing containers for storage use) was incompatible with the surrounding land uses which were predominantly rural in character with a mixture of residential dwellings/structures and fallow agricultural land.
- R4 Approval of the application would set an undesirable precedent for other similar applications within the "AGR" and "V" zones. 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 that:
  - (i) the applicant should make its 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 vehicle access of the proposed use;
  - (ii) the actual occupation area does not tally with the one under application;
  - (iii) the Government land adjacent to the Site is being occupied without approval from his office. Some portions of the adjoining Government land were fenced off by hoardings without approval. It was not acceptable and the applicant should cease the illegal occupation and remove those hoardings at its own cost. This office reserves the right to take land control actions against the unauthorised occupation of Government land;
  - (iv) the existing structures on the 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;
  - (v) the total built-over area and numbers of the aforesaid structures do not tally with the proposed ones as mentioned in the planning parameters;
  - (vi) the Site falls within the limits of “Sha Tau Kok Shek Kiu Tau Site of Archaeological Interest”;
  - (vii) a Letter of Approval No. L4401 (L of A) was issued to allow the erection of temporary structures on Lot No. 2467 in D.D. 39 for duck raising purpose. Nevertheless, duck raising activities were not found at the time of site inspection. Further, the dimensions of the existing structures do not tally with the ones permitted under the L of A concerned;
  - (viii) he has no comment on the application from Small House Policy point of view; and
  - (ix) should the application is approved, the owner(s) 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 will be considered by Government in its landlord’s capacity and there is no guarantee that they will be approved. If the applications are approved, their commencement date will 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.

- (c) to note the comments of the Commissioner for Transport that the vehicular access between the site and Sha Tau Kok Road are not managed by her office. The applicant should seek comment from the responsible party;
- (d) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that:
  - (i) there is no record of submission of the proposed temporary buildings / structures to the Building Authority (BA) for approval. The proposed temporary structures are subject to the control of Part VII of the Building (Planning) Regulations and require prior approval and consent under the Buildings Ordinance (B));
  - (ii) before any new building works are to be carried out on the Site, the prior approval and consent of the BA should be obtained, otherwise they are Unauthorized Buildings Works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO;
  - (iii) for UBW erected on leased land, enforcement action may be taken by 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;
  - (iv) the Site shall be provided with means of obtaining access thereto from a street under the Building (Planning) Regulations 5 and emergency vehicular access shall be provided under the Building (Planning) Regulation 41D;
  - (v) if the Site does not abut a specified street having a width not less than 4.5m wide, the development intensity shall be determined under the Building (Planning) Regulations 19(3) at the building plan submission stage; and
  - (vi) detailed consideration will be made at building plan submission stage.
- (e) to note the comments of the Chief Engineer/Construction, Water Supplies Department that for provision of water supply to the development, the applicant may need to extend his/her 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 connection, operation and maintenance of the inside services within the private lots to WSD's standards;
- (f) to note the comments of the Director of Fire Services that:
  - (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;
  - (iii) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans; and

- (iv) to address the approval condition regarding the provision of fire extinguisher, the applicant is advised to submit a valid fire certificate (FS 251) to his office for approval.
- (g) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that
  - (i) the applicant should submit satisfactory stormwater drainage and site formation proposals to demonstrate that there would be adequate measures provided at the resources of the applicant to avoid the Site from being eroded and flooded and to ensure capacity of streamcourse and flooding susceptibility of the adjoining areas would not be adversely affected by the proposed development;
  - (ii) the applicant shall be required to place all the proposed works 3m away from the top of the bank of the streamcourse. All the proposed works in the vicinity of the streamcourse should not create any adverse drainage impacts, both during and after construction. Proposed flooding mitigation measures if necessary shall be provided at the resources of the applicant to his satisfaction;
  - (iii) the applicant should be reminded to minimize the possible adverse environmental impacts on the existing streamcourse in his design and during construction; and
  - (iv) the Site is in an area where no public sewerage connection is available.
- (h) to note the comments of the Director of Agriculture, Fisheries and Conservation that good site practices should be implemented in order not to pollute the watercourse nearby;
- (i) to note the comments of the Executive Secretary (Antiquities & Monuments), Antiquities and Monuments Office (ES(A&M), AMO) that the applicant should inform her office immediately in case of the discovery of antiquities or supposed antiquities in the course of construction and ensure that no damage(s) / disturbance(s) will be made to the graded buildings if any works to be carried out arising from the proposed development; and
- (j) to note the comments of Director of Environmental Protection that the applicant is advised to follow the relevant mitigation measures and requirements as set out in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by DEP in order to minimize any possible environmental nuisances and observe the Water Pollution Control Ordinance to avoid any pollution to the existing watercourse to the immediate south of the Site.