

**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. 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 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.
 - (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.

Previous S.16 Applications

Approved Applications

Application No.	Uses/ Development	Date of Consideration	Approval Conditions
A/DPA/NE-TKL/4	Warehouse Development for Storage of Steel Materials	31.1.1992 (approved for a period of 3 years) (on review)	A1, A2, A3 & A4
A/NE-TKL/81	Open Storage of Construction Materials for a Temporary Period of 12 Months	6.11.1998 (on review)	A2, A5, A6 & A7
A/NE-TKL/130	Temporary Open Storage of Construction Materials for 3 Years	5.11.1999	A2, A6, A7, A8, A9 & A10
A/NE-TKL/226	Temporary Open Storage of Construction Materials for a Period of 3 Years	22.11.2002	A10, A11 & A12
A/NE-TKL/277	Temporary Open Storage of Construction Materials for a Period of 3 Years	9.12.2005	A10, A13 A14, A15, A16 & A17
A/NE-TKL/311	Renewal of Planning Approval for Temporary Open Storage of Construction Materials under Application No. A/NE-TKL/277 for a Period of 3 Years	5.12.2008	A6, A10, A11, A14, A18, A19, A20, A21, A22, A23 & A24
A/NE-TKL/377	Renewal of Planning Approval for Temporary Open Storage of Construction Materials under Application No. A/NE-TKL/311 for a Period of 3 Years	6.12.2011	A10, A14, A18, A19, A22, A23, A24, A25, A26 & A27
A/NE-TKL/490	Renewal of Planning Approval for Temporary Open Storage of Construction Materials for a Period of 3 Years	28.11.2014	A10, A14, A18, A19, A23, A24, A25, A28, A29, A30, A31 & A32

Approval Conditions:

- A1 The provision of sewage treatment and disposal facilities
- A2 The provision of drainage facilities
- A3 The provision of landscape planting
- A4 The commencement clause
- A5 The provision of parking and loading/unloading spaces, vehicles manoeuvring area and vehicular access arrangement
- A6 The submission and implementation of landscaping proposals
- A7 The reinstatement clause
- A8 Operation of the open storage use under application shall be prohibited between 11:00 p.m. to 7:00 a.m.
- A9 The provision of 2.5m high solid boundary wall along the periphery of the application site
- A10 The revocation clause
- A11 No night-time operation between 11:00 p.m. and 7:00 a.m. was permitted
- A12 The maintenance of screen planting
- A13 No night-time operation between 11:00 p.m. and 7:00 a.m. should be carried out
- A14 The peripheral fencing and paving of the application site should be maintained
- A15 The existing vegetation on site should be maintained
- A16 The submission of proposals for vehicular access, parking and loading/unloading spaces
- A17 The implementation of proposals for vehicular access, parking and loading/unloading spaces
- A18 No operation on Sundays and public holidays was allowed
- A19 The stacking height of the materials stored within five metres of the periphery of the site should not exceed the height of the boundary fence
- A20 The submission of a layout plan showing vehicular access, parking and loading/unloading spaces
- A21 The provision of vehicular access, parking and loading/unloading spaces
- A22 The submission and the implementation of drainage proposals

- A23 The submission of proposals on fire-fighting access, water supplies for fire fighting and fire service installations
- A24 The provision of fire-fighting access, water supplies for fire fighting and fire service installations
- A25 No night time operation between 6:00 p.m. and 8:30 a.m. was allowed
- A26 No workshop activities were allowed
- A27 The submission and the implementation of landscape and tree preservation proposal
- A28 The existing trees and landscaping planting on the site should be maintained
- A29 The existing drainage facilities implemented under application no. A/NE-TKL/377 on the site should be maintained
- A30 The submission of a record of the existing facilities
- A31 The provision of fire extinguisher(s)
- A32 No workshop activities should be carried out

Rejected Application

Application No.	Uses/ Development	Date of Consideration	Rejection Reasons
A/IDPA/NE-TKL/6	Workshop / Godown for Assembling Steel Structures	27.2.1991	R1, R2, R3 & R4

Rejection Reasons:

- R1 The proposed development was incompatible with the planning intention for the area which was to promote agricultural and recreation uses
- R2 The proposed development would cause noise and water pollution for which no mitigation measures had been proposed in the application
- R3 Provision of sewage treatment/disposal facilities had not been proposed in the application
- R4 The proposed site coverage of 50% was excessive

**Similar S.16 Applications for Temporary Open Storage
in the vicinity of the application site within/partly within the “Agriculture” zone
in the Ping Che & Ta Kwu Ling Area**

Approved Applications

<u>Application No.</u>	<u>Uses/ Development</u>	<u>Date of Consideration</u>	<u>Approval Conditions</u>
A/NE-TKL/539	Proposed Temporary Open Storage (Construction Material) for a Period of 3 Years	28.10.2016	A1, A2, A3, A4, A5, A6, A7, A8, A9, A10, A11, A12, A13 & A14

Approval Conditions:

- A1 No operation between 6:00 p.m. and 9:00 a.m. from Mondays to Fridays was allowed
- A2 No operation between 12:00 noon and 12:00 p.m. on Saturdays, and no operation on Sundays and public holidays was allowed
- A3 No container tractor/trailer as defined in the Road Traffic Ordinance was allowed to be parked/stored on or enter/exit the site
- A4 No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities should be carried out
- A5 The provision of boundary fencing
- A6 The submission and the implementation of tree preservation and landscape proposals
- A7 The submission of drainage proposal
- A8 The provision of drainage facilities
- A9 The provision of fire extinguisher(s)
- A10 The submission of proposals for water supplies for fire-fighting and fire service installations
- A11 The provision of water supplies for fire-fighting and fire service installations
- A12 The submission and implementation of a run-in/out proposal

A13 The revocation clause

A14 The reinstatement clause

Rejected Applications

<u>Application No.</u>	<u>Uses/ Development</u>	<u>Date of Consideration</u>	<u>Rejection Reasons</u>
A/NE-TKL/328	Proposed Temporary Open Storage of Construction Materials for a Period of 3 Years	26.3.2010 (on review)	R1, R2 & R3
A/NE-TKL/418	Temporary Open Storage of Construction Materials (Steel Bars) for a Period of 3 Years	24.5.2013	R4, R5 & R6

Rejection Reasons:

- R1 The proposed development was not in line with the planning intention of the "AGR" zone in the Ta Kwu Ling area which was primarily 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 the planning intention, even on a temporary basis
- R2 The proposed use did not comply with the TPB Guidelines No. 13E for "Application for Open Storage and Port Back-up Uses" in that no previous planning approval had been granted to the application site and there were adverse departmental comments on the application and local objections against the application
- R3 The proposed use would generate adverse environmental, landscape and traffic impacts on the surrounding areas
- R4 The development 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. 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 merit a departure from such planning intention, even on a temporary basis
- R5 The development was not in line with the Town Planning Board Guidelines No. 13E for Application for Open Storage and Port Back-up Uses in that no previous planning approval had been granted to the application site; there were adverse departmental comments and local objection on the application and the applicant had failed to demonstrate that the development would not generate adverse landscape, drainage and

environmental impacts on the surrounding areas

- R6 Approval of the application would set an undesirable precedent for other similar applications within this part of 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) 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 on the following:
 - (i) portion of the Government land within the Site is being illegally occupied. Unauthorised structures were erected on Lots 1507 S.B RP, 2022 S.B RP and 2037 in D.D. 76 and adjoining Government land without prior approval from his office. The total build-over area and the number of structures erected on the Site are larger than the proposal under the application. The aforesaid structures are not acceptable under the Lease. His office reserves the rights to take necessary land control and lease enforcement actions against the irregularities; and
 - (ii) application for Short Term Waiver and a Short Term Tenancy have been received and are being processed by his office. 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 Director of Environmental Protection that in order to minimise any possible environmental nuisance to be caused by the operation of the Site; the applicant is advised to implement relevant mitigation measures as stipulated in Environmental Protection Department's "Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses";
- (d) to note the comments from the Chief Town Planner/Urban Design and Landscape, Planning Department that the applicant is advised to make reference to "Handbook on Tree Management" published by DEVB for on-going tree maintenance and detailed information can be obtained at https://www.greening.gov.hk/en/tree_care?Handbook_on_Tree_Management.html;
- (e) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) on the following:
 - (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 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 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 temporary converted containers for site office / storage are considered as temporary buildings are subject to control under the Building (Planning) Regulations Pt. VII;
 - (v) 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;
 - (vi) 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
 - (vii) formal submission under the BO is required for any proposed new works, including any temporary structures. Detailed comments under BO will be provided at building plan submission stage;
- (f) to note the comments of the Director of Fire Services on the following:
- (i) to address the 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, fire service installations (FSIs) will need to be installed;
 - (iii) in such circumstances, except where no building plan will be circulated to his department via the Centralised Processing System of the BD, the applicant is required to send the relevant layout plans to his department incorporated with the proposed FSIs for approval. In preparing the submission, the applicant is advised on the following points:
 - (a) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (b) the locations of the proposed FSI to be installed and the access for emergency vehicles should be clearly indicated on the layout plans;
 - (iv) detailed fire safety requirements will be formulated upon receipt of formal submission of the aforesaid plans. The applicant will need to subsequently provide such FSIs according to the approved proposal; and
 - (v) emergency vehicular access arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by the BD; and
- (g) to note the comments of the Chief Engineer/Construction, Water Supplies Department that

the Site is located within the flood pumping gathering ground; and

- (h) to note the comments of the Chief Highway Engineer/New Territories East, Highways Department that noting there is no proper run-in/out for the Site, the applicant is required to construct a proper run-in/out according to HyD's standards and reinstate the run-in/out to its original state upon expiry of the approval.