

**Relevant Extract of Town Planning Board Guidelines No. 34C on  
“Renewal of Planning Approval and Extension of Time for Compliance  
with Planning Conditions for Temporary Use or Development”  
(TPB-PG No. 34C)**

1. The relevant assessment criteria for assessing applications include:
  - (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
  - (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
  - (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
  - (d) whether the approval period sought is reasonable; and
  - (e) any other relevant considerations.
  
2. Under normal circumstances, the approval period for renewal application should not be longer than the original validity period of the temporary approval. In general, the Board is unlikely to grant an approval period exceeding three years unless there are strong justifications and the period is allowed for under the relevant statutory plans. Depending on the circumstances of each case, the Board could determine the appropriate approval period, which may be shorter than the time under request.

**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 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.

**Recommended Advisory Clauses**

- (a) to note the comments of the District Land Officer/North, Lands Department on the following:
  - (i) existing structures were erected on Lot 1344 without prior approval of his office. The aforesaid structures are not acceptable under the Lease concerned. His office reserves the right to take necessary lease enforcement action against the irregularities; and
  - (ii) the lot owner did not apply to his office for a Short Term Waiver (STW) to cover all the existing structures on site after the previous planning application No. A/NE-TKL/553 was granted; and
  - (iii) if the planning application is approved, the owners of Lot 1344 shall apply to his office for a STW to cover all the existing structures on site. 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 will 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 fee as considered appropriate by his office;
- (b) to note the comments of the Commissioner for Transport that the local track leading to the Site is not managed by her office. The land status, management and maintenance responsibilities of the local track should be clarified with the relevant lands and maintenance authorities accordingly;
- (c) to note the comments of the Chief Engineer/New Territories East, Highways Department that the road connecting the proposed ingress/egress of the Site to Ping Che Road is not maintained by his department;
- (d) to note the comments of the Director of Agriculture, Fisheries and Conservation that good site practice should be adopted to avoid surface runoff from polluting the adjacent watercourse;
- (e) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) on the following:
  - (i) if the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the captioned application;
  - (ii) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO;

- (iii) for UBW erected on leased land, enforcement action may be taken by the BD 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 and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations respectively;
  - (vi) if the Site does not abut a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulations at the building plan submission stage; and
  - (vii) detailed comments under the BO will be provided at the building plan submission stage;
- (f) to note the comments of the Director of Fire Services on the following:
- (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 from Chief Engineer/Mainland North, Drainage Services Department that the site is in an area where no public sewer connection is available; and the submission of condition record shall include photos clearly showing the current conditions of the existing drainage facilities including those downstream of the Site; and
- (h) to follow the environmental mitigation measures as set out in the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection in order to minimise any possible environmental nuisances; and the applicant should be reminded to follow EPD's ProPECC PN5/93 for the provision of septic tank and soakaway system and/or other waste water treatment facilities, and that it is the applicant's responsibility to ensure proper and full implementation of all precautionary and mitigation measures including regular maintenance of the existing septic tank to keep it in good operating condition. The applicant is also reminded to observe strictly all relevant pollution control ordinance such as Noise Control Ordinance, Air Pollution Control Ordinance, Water Pollution Control Ordinance, Waste Disposal Ordinance, etc during the operation of the project.