

**Relevant Extract of Town Planning Board Guidelines No. 10 for
“Application for Development within Green Belt Zone
under Section 16 of the Town Planning Ordinance”
(TPB PG-No. 10)**

The relevant assessment criteria for assessing applications include:

- (a) there is a general presumption against development (other than redevelopment) in a “GB” zone;
- (b) an application for new development in a “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of surrounding areas;
- (c) the design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment;
- (d) the vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features. Tree preservation and landscaping proposals should be provided;
- (e) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area;
- (f) the proposed development must comply with the development controls and restrictions of areas designated as water gathering grounds;
- (g) the proposed development should not overstrain the overall provision of Government, institution and community facilities in the general area; and
- (h) the proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution.

**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.

Previous S.16 Application

Approved Application

Application No.	Uses/Developments	Date of Consideration	Approval Conditions
A/NE-TKLN/4	Temporary Canteen and Ancillary Office for a Period of 3 Years	14.9.2016	A1 - A11

Approval Conditions

- A1 No operation between 3:00 p.m. and 7:00 a.m. on weekdays was allowed
- A2 No operation on Saturdays, Sundays and public holidays was allowed
- A3 The maintenance of the existing boundary fencing
- A4 The submission of drainage proposal
- A5 The provision of drainage facilities
- A6 The submission and implementation of proposals for water supplies for fire-fighting and fire service installations
- A7 The submission and implementation of landscape proposals
- A8 The submission of design of septic tank and soakaway system and/or other wastewater treatment facilities
- A9 The provision of septic tank and soakaway system and/or other wastewater treatment facilities
- A10 Revocation clause
- A11 Reinstatement clause

**Similar S.16 Applications for Canteen
within/partly within the "Green Belt" zone in the vicinity of the Site in the
Ta Kwu Ling North Area**

Approved Applications

Application No.	Uses/Developments	Date of Consideration	Approval Conditions
A/NE-TKLN/6	Temporary Retail Shop, Canteen and Ancillary Office for a Period of 3 Years	13.4.2018 (on review)	A1 - A9

Approval Conditions

- A1 No operation between 5:00 p.m. and 8:00 a.m. on weekdays was allowed
- A2 No operation on Saturdays, Sundays and public holidays was allowed
- A3 The submission of drainage proposal
- A4 The provision of drainage facilities
- A5 The submission and implementation of proposals for fire service installations and water supplies for fire-fighting
- A6 The submission of design of septic tank and soakaway system and/or other wastewater treatment facilities
- A7 The provision of septic tank and soakaway system and/or other wastewater treatment facilities
- A8 Revocation clause
- A9 Reinstatement clause

Recommended Advisory Clauses

- (a) to note the comments of the District Land Officer/North, Lands Department as follows:
- (i) the existing structures were erected on the Site without approval from his office. The aforesaid structures are not acceptable under the lease concerned. His office reserves the right to take enforcement actions against the existing structures;
 - (ii) one of the existing structures was erected for toilet use, the applicant should note that any proposed septic tank and soakaway pit system should meet current health requirements, and that he should apply for certificates for building works and drainage works from his office before erection;
 - (iii) the total built-over area of the existing structures does not tally with the one mentioned in the planning application;
 - (iv) after the applied use was approved by the Committee on 14.9.2016, the applicant and the then owner of Lot 410 S.B RP in D.D. 78 jointly submitted the Short Term Waiver (STW) application on 19.12.2018. However, the STW application, could not be processed because the ownership of the Lot has been changed on 20.12.2018 according to land search records. Further, the new owner of the Lot failed to raise any STW application in respect of the applied use; and
 - (v) if the planning application is approved, the owners of the lots concerned shall apply to his office for STW to cover all the existing structures on Site. The STW application and certificates for building works and drainage works will be considered by Government in its landlord's and relevant capacities and there is no guarantee that they will be approved. If the STW is approved, 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 connecting with Lin Ma Hang Road leading to the Site is not managed by TD. The land status, management and maintenance responsibility of the local track should be clarified with the relevant lands and maintenance authorities accordingly;
- (c) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that the applicant is reminded to maintain his system properly and rectify any inadequacies or defects found during operation. In addition, the owner shall be liable for and shall indemnify claims and demands arising out of damage or nuisance due to failure of the system;
- (d) to note comments of Chief Engineer/Construction, Water Supplies Department that for the provision of water supply to the development, the applicant may need to extend the 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 construction, operation and maintenance of the inside services within the private lots to WSD's standards;
- (e) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department as follows:

- (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 application;
 - (ii) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent from BD should be obtained, otherwise they are UBW. An authorized person (AP) 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) if the proposed use under application is subject to the issue of a license, the applicant should be reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority;
 - (v) the Site should be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Building (Planning) Regulations (B(P)Rs) 5 and 41D 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 B(P)R 19(3) at the building plan submission stage; and
 - (vii) detailed comments under the BO will be provided at the building plan submission stage; and
- (f) to note comments of Director of Environmental Protection that 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.