

**Relevant Extracts of The 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 criteria for assessing applications for renewal of planning approval 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 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 Applications Covering the Application Site

Approved Applications

<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
A/TM-LTYYY/73	Temporary Real Estate Agency Office for a Period of 3 Years	16.3.2001	(3), (4), (8)
A/TM-LTYYY/75	Retail Shop	30.3.2001	(4)
A/TM-LTYYY/309	Temporary Office for a Period of 3 Years	13.5.2016 [Revoked on 13.2.2017]	(1) to (8)
A/TM-LTYYY/334	Temporary Office for a Period of 3 Years	26.5.2017	(1), (2), (4), (5), (7), (8)

Approval Conditions

- (1) No night operation
- (2) Minimum horizontal and vertical clearance from Lam Tei Main Street and its road verge
- (3) Submission of proposal for drainage facilities
- (4) Provision/Implementation of drainage facilities
- (5) Maintenance of implemented drainage facilities
- (6) Submission of fire service installation proposal
- (7) Implementation of fire services installation proposal
- (8) Revocation clauses

Advisory Clauses

- (a) to note the comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD) that:
- (i) the application site (“the Site”) falls within Lot No. 694 S.L RP in D.D. 130 (“the Lot”) and adjoining government land (GL). The Lot is Old Schedule Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. The Lot was sub-divided from Lot No. 694 S.L. in D.D. 130 (“the Mother Lot”). Short Term Waiver (STW) No. 758 and Short Term Tenancy (STT) No. 1261 were issued to the Mother Lot and the adjoining GL respectively for erection of structures thereon;
 - (ii) an application for cancelling STW No. 758 and STT No. 1261 and re-issue of a new STW and a new STT on the Site was approved by his office subject to the approval of application No. A/TM-LTYT/309. However, due to the non-compliance with the approval conditions of aforesaid planning application, the said planning permission was revoked on 23.2.2017 and the application was rejected. Subsequently, application No. A/TM-LTYT/334 was approved by the Committee on 26.5.2017 and all approval conditions have been complied with. The applicant submitted the applications for a new STW and a new STT on 26.8.2019 to regularize the existing structures;
 - (iii) site inspection revealed that the existing structures on the Site deviate from those permitted under STW No. 758 and STT No. 1261. They were used for temporary office. No permission has been given for the change of the area/user of the structure nor has any permission been given for the additional occupation of GL concerned. Applications for a new STW and STT to cover the existing structure for temporary office purposes on the Lot and the adjoining GL is under procession by his office. The layout and configuration of existing structure tally with the proposal;
 - (iv) the Site is accessible via a strip of GL leading from Lam Tei Main Street. His office does not carry out maintenance works for the said road nor guarantee that right-of-way will be given to the Site;
 - (v) processing of the above applications for a new STW and a new STT would be continued by his office to regularize the existing structures on the Lot and the adjoining GL. However, there is no guarantee that the applications will be approved and he reserves his right to take any actions as may be appropriate. The application will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the applications are approved, they would be subject to such terms and conditions as the Government shall deem fit to do so, including charging of waiver fee, rent, deposit and administration fee etc; and
 - (vi) notwithstanding the above, his office reserves the right to take enforcement actions as considered appropriate against any unauthorized erection/extensions/alterations of structures affected. Enforcement action will also be taken should any structures are found erected without any prior approval given by his office or any unauthorized occupation of GL;

- (b) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that:
 - (i) the applicant shall be required to vacate the road verge at their own cost to facilitate inspection, maintenance improvement or repair works of public highways, street furniture and the like upon prior notification from his department;
 - (ii) the applicant shall be required to vacate the road verge without any prior notice in emergencies and his department would not be responsible for any damage done to their properties in case they are removed due to emergencies;
 - (iii) the applicant should take all necessary measures to avoid causing any damage to public roads/street furniture and make good any damage done at his own expenses to his satisfaction arisen from the applicant's activities; and
 - (iv) adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and exclusive road drains;
- (c) to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by the Environmental Protection Department;
- (d) to note the comments of the Director of Environmental Protection (DEP) that effluent discharges from the proposed use are subject to control under the Water Pollution Control Ordinance (WPCO). A discharge licence under the WPCO should be obtained before a new discharge is commenced. It is the obligation of the applicant to meet all statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures;
- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that the following should be incorporated when submitting their drainage proposal:
 - (i) the applicant should refer to the guidelines as specified in "Technical Note to prepare a Drainage Submission" which is available at DSD's website (https://www.dsd.gov.hk/EN/Technical_Documents/DSD_Guidelines/index.html);
 - (ii) presumably it is the intent of applicant to make drainage connection to public drainage to discharge runoff from the Site. According to his records, there is no DSD maintained facility in the vicinity of the Site. In this regard, the applicant should be reminded to identify such public drainage and consult, as appropriate, the relevant authorities/ owners of the existing drainage for consent of the connection works;
 - (iii) details of the proposed u-channel and catchpits and how it would be connected to the existing drainage system should be clarified and clearly shown in the proposed drainage proposal;
 - (iv) peripheral drainage channels should be provided to intercept the surface runoff from the uphill catchment so as to avoid the Site from overland flow influence;

- (v) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owners at their own expense. For any works to be carried out outside his lot boundary, the applicant should consult DLO/TM and seek consent from relevant lot owners before commencement of the drainage works;
 - (vi) the applicant is required to rectify the drainage system if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by a failure of the drainage system; and
 - (vii) the proposed work should neither obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas; and
- (f) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that there is no record of approval by the Building Authority for the existing structures at the Site. The applicant's attention is drawn to the following points:
- (i) if the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designed 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 of the 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 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) fire barriers with sufficient fire resistance rating should be provided to separate the building and the adjacent unit under Regulation 90 of the Building (Construction) Regulations at the building plan submission stage;
 - (v) the proposed office should be provided with windows in compliance with Building (Planning) Regulations 30 and 31; and
 - (vi) detailed comments will be provided at the building plans submission stage.