

**Relevant extracts of the Town Planning Board Guidelines No. 34C for
“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 circumstance 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</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
1	A/YL/192	Proposed Shop and Services (Retail Shop)	19.10.2012 approved for 3 years [revoked on 19.4.2013]	(1), (2), (3)
2	A/YL/200	Proposed Shop and Services (Retail Shop)	16.8.2013 approved for 3 years	(1), (2), (3)
3	A/YL/221	Renewal of Planning Approval for Temporary Shop and Services (Retail Shop) for a Period of 3 Years	24.6.2016 approved for 3 years from 17.8.2016 to 16.8.2019	(1), (2), (3)

Approval Condition(s):

- (1) Operation is restricted from 3:00 p.m. to 8:00 p.m. daily, as proposed by the applicant, during the planning approval period.
- (2) Submission and provision of fire service installations proposal.
- (3) Revocation of planning approval if conditions not complied with by a given date/at any time during the approval period.

Similar Applications within the Same “Open Space” Zone on the OZP

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Condition(s)</u>
1	A/YL/215	Proposed Temporary Shop and Services (Farm Product and Grocery Shop) with Ancillary Office and Storeroom for a Period of 6 Years	23.10.2015	(1), (2), (3), (4), (5), (6), (7), (8), (9)
2	A/YL/218	Proposed Temporary Shop and Services (Real Estate Agency and Car Audio Shop) for a Period of 6 Years	19.2.2016	(1), (2), (3), (4), (5), (6), (7), (8), (9)
3	A/YL/233	Proposed Temporary Shop and Services (Real Estate Agency, Book Shop and Ancillary Site Office) for a Period of 6 Years	22.9.2017	(1), (2), (3), (6), (7), (8), (9)
4	A/YL/241	Proposed Temporary Shop and Services (Car Beauty Services) for a Period of 6 Years	16.3.2018	(1), (2), (3), (5), (6), (9), (10), (11), (12), (13)

Approval Conditions:

- (1) Operation hours restricted between specific time/no operation during specific time limit is allowed on the site.
- (2) Submission and provision/implementation of water supplies for firefighting/fire service installations proposal.
- (3) Revocation of planning approval for non-compliance with conditions by a specified date/at any time during the approval period.
- (4) No medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, are allowed to be parked/stored on or enter/exit the site at any time during the planning approval period.
- (5) No vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.
- (6) Submission and implementation of drainage proposal.
- (7) Maintenance of the implemented drainage facilities.
- (8) Submission and implementation of landscape proposal.
- (9) Upon the expiry of the planning permission, the reinstatement of the site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.
- (10) No dismantling, maintenance, repairing, paint-spraying or other workshop activities are allowed on the site.
- (11) No vehicle without valid licence issued under the Road Traffic Ordinance is allowed to be parked/stored on site.
- (12) Only private cars as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the site.
- (13) Provision of boundary fence on the site.

Rejected Applications

	<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Rejection Reason(s)</u>
1	A/YL/156	Temporary Place of Recreation (including Outdoor Barbecue Area), Eating Place, and Shop and Services (Retail of Frozen Food) for a Period of 3 Years	30.11.2007	(1), (2), (3)
2	A/YL/160	Temporary Place of Recreation (including Outdoor Barbecue Area), Eating Place, and Shop and Services (Retail of Frozen Food) for a Period of 3 Years	18.4.2008	(1),(3), (4)

Main Reasons for Rejection:

- (1) The development was environmentally undesirable as it would cause noise and odour nuisance to nearby residents and problems of public hygiene.
- (2) Insufficient information in the submission to demonstrate that the development would not have adverse traffic and drainage impacts on the surrounding areas.
- (3) Approval of the planning application would set an undesirable precedent for other similar applications in the "Open Space" zone. The cumulative effects of approving such applications would result in a general degradation of the environment of the area.
- (4) Insufficient information in the submission to demonstrate that the development would not have adverse environmental and drainage impacts on the surrounding areas.

Advisory clauses

- (a) to resolve any land issues relating to the development with the concerned owner(s) of the application site (the Site);
- (b) to note the comments of the District Lands Officer/Yuen Long, Lands Department that the Site comprises Old Schedule Agricultural Lots 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. Lot No. 4582 S.A and 4583 RP in D.D. 116 are currently covered by STW No. 3883 which permits structures erected thereon for the purpose of 'temporary shop and services (retail shop)'. The Site is accessible from Tai Kei Leng Road via government land (GL). Her office does not provide maintenance work for this GL involved and does not guarantee any right-of-way over the GL to the Site. Should planning approval be given to the subject planning application, the STW holder(s) will need to apply to her office for modification of the STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by her department acting in the capacity as landlord at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by her department;
- (c) to note the comments of the Commissioner for Transport that the land status of the access road/path/track leading to the Site at Tai Kei Leng Road should be checked with the lands authority. The management and maintenance responsibilities of the access road/path/track should be clarified and consulted with the relevant management and maintenance authorities accordingly;
- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that his department is not and shall not be responsible for the maintenance of the existing vehicular access connecting the Site and Tai Kei Leng Road;
- (e) to note the comments of the Director of Environmental Protection that the applicant is advised 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 her department to minimise any potential environmental nuisances;
- (f) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that the applicant is reminded to provide his own drainage facilities to collect the runoff generated from the Site or passing through the Site, and discharge the runoff collected to a proper drainage point. The development should not obstruct overland flow or cause any adverse drainage impact to the adjacent areas and existing drainage facilities. The applicant is also reminded to consult DLO/YL, LandsD and seek consent from the relevant owners for any works to be carried out outside his lot boundary before commencement of the drainage works;
- (g) to note the comments of the Director of Fire Services that the existing fire service installations (FSI) implemented on the Site should be maintained in efficient working order at all times;
- (h) to note the comments of the Director of Food and Environmental Hygiene that her

department's facilities will not be affected and such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding. For any waste generated from such activity/operation, the applicant should arrange disposal properly at their own expenses. Proper licence/permit issued by her department is required if there is any food business/catering service/activities regulated by her under the Public Health and Municipal Services Ordinance and other relevant legislation for the public;

- (i) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that there is no record of approval by the Building Authority (BA) for the structures existing at the Site. If the existing structures are erected on leased land without the approval of his department, they are unauthorized under the BO and should not be designated for any proposed use under the application. Before any new building works (including converted container and open sheds) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO. For UBW erected on leased land, enforcement action may be taken by the BA to effect their removal in accordance with his department'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. If the proposed use under application is subject to the issue of a licence, the applicant should be reminded that any existing structures on the Site intended to be used for such proposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority. 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 (B(P)R) respectively. If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage; and
- (j) to note the comments of the Director of Food and Environmental Hygiene that no Food and Environmental Hygiene Department's (FEHD) facilities will be affected and such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding. Proper licence/ permit issued by FEHD is required if there is any catering service/ food business/ activities regulated by the Director of Food and Environmental Hygiene under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public. For any waste generated from the such activity/ operation, the applicant should arrange disposal properly at their own expenses.