

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

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.

**Relevant Extracts of Town Planning Board Guidelines on
Application for Open Storage and Port Back-up Uses
(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 within 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: planning permission could be granted on a temporary basis up to a maximum period of 3 years, 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. 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;
 - (c) Category 3 areas: within these areas, "existing" and approved open storage and port back-up uses are to be contained and further proliferation of such uses is not acceptable. Applications within Category 3 areas would normally not be favourably considered unless the applications are on sites with previous planning approvals. 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 to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Planning permission could be granted on a temporary basis up to a maximum period of 3 years, 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; and
 - (d) Category 4 areas: applications 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 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 merit.

2. In assessing applications for open storage and port back-up uses, the other major relevant assessment criteria are also summarized as follows:
 - (a) there will be a general presumption against development on sites of less than 1,000m² for open storage uses and 2,000m² for port back-up 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, minimizing sprawl over countryside areas and reducing travel trips;
 - (b) port back-up sites and those types of open storage uses 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;
 - (c) 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;
 - (d) adequate screening of the sites through landscaping and/or fencing should be provided where sites are located adjacent to public roads or are visible from surrounding residential areas;
 - (e) there is a general presumption against conversion of agricultural land and fish ponds to other uses on an ad hoc basis, 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, planning permission may be refused, or a shorter compliance period for the approval conditions may be imposed, notwithstanding other criteria set out in the Guidelines are complied with.

**Appendix IV of RNTPC
Paper No. A/YL-KTN/635**

Previous s.16 Applications covering the Application Site

Approved Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Condition(s)</u>
1	A/YL-KTN/57	Temporary open storage of private vehicles and vehicle parts for a period of 12 months	20.3.1998	1, 2, 3
2	A/YL-KTN/83	Temporary open storage of private vehicles and vehicle parts for a period of 12 months	12.3.1999	1, 3
3	A/YL-KTN/109	Temporary open storage of private vehicles and vehicle parts for a period of 3 years	31.3.2000 for 2.5 years	1, 3, 4
4	A/YL-KTN/157	Temporary open storage of private vehicles and vehicle parts for a period of 3 years	8.11.2002	1, 3, 4, 5
5	A/YL-KTN/240	Temporary open storage of private vehicles and vehicle parts for a period of 3 years	25.11.2005 (revoked on 25.5.2006)	3, 4, 5, 6, 7, 8, 9, 10
6	A/YL-KTN/266	Temporary open storage of private vehicles and vehicle parts for a period of 3 years	1.12.2006	3, 4, 5, 6, 7, 8, 9, 10
7	A/YL-KTN/336	Renewal of planning approval for temporary "open storage of private vehicles and vehicle parts" under application no. A/YL-KTN/266 for a period of 3 years	20.11.2009	3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 16
8	A/YL-KTN/395	Renewal of planning approval for temporary "open storage of private vehicles and vehicle parts" under application no. A/YL-KTN/336 for a period of 3 years	9.11.2012	3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16

9	A/YL-KTN/491	Renewal of planning approval for temporary “open storage of private vehicles and vehicle parts” under application no. A/YL-KTN/395 for a period of 3 years	20.11.2015	3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16
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Approval Conditions

1. the submission and implementation of landscape proposals
2. the submission and/or provision of drainage facilities
3. the reinstatement of the application site after the expiry of the planning approval
4. if any of the planning condition is not complied with during the planning approval period or by the specified date, the approval shall cease to have effect and be revoked without further notice
5. no medium or heavy goods vehicles or container vehicles should be parked/stored
6. set back of site boundary
7. no vehicle repairing / dismantling / maintenance / cleansing / painting spraying / workshop activities
8. the existing trees should be preserved and the landscaping planting on the site should be maintained
9. the drainage facilities on the application site should be maintained
10. the provision of fire extinguisher(s)
11. restriction on operation hours
12. the stacking height of the vehicles
13. the existing fencing erected should be maintained
14. the submission of record of existing drainage facilities
15. no reversing of vehicles into or out from the site
16. the submission and implementation of fire service installations proposals

Rejected Application

<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Main Reason(s) for Rejection</u>
A/YL-KTN/42	Temporary open storage of private vehicles and vehicle parts for a period of 12 months	21.11.1997	1, 2, 3

Rejection Reasons

1. the development is not in line with the planning intention and no strong justification has been given for a departure from the planning intention even on a temporary basis
2. the development is incompatible with adjacent village houses
3. approval of the application would set an undesirable precedent for other similar applications

**Appendix V of RNTPC
Paper No. A/YL-KTN/635**

Similar s.16 Applications within the same “R(D)” zone on Kam Tin North OZP

Approved Applications

	Application No.	Proposed Use	Date of Consideration (RNTPC/TPB)	Approval Condition(s)
1	A/YL-KTN/312	Temporary open storage of light goods vehicles for sale for a period of 3 years	7.11.2008	3, 6, 7, 8, 10, 11, 12, 13, 15
2	A/YL-KTN/328	Renewal of planning approval for temporary open storage of construction machinery, private vehicles and vehicle parts under application No. A/YL-KTN/252 for a period of 3 years	5.6.2009	3, 5, 6, 7, 9, 10, 11, 13
3	A/YL-KTN/332	Renewal of planning approval for temporary open storage of vehicles (lorries, vans and private cars) for sale under Application No. A/YL-KTN/254 for a Period of 3 Years	7.8.2009	1, 3, 6, 7, 10, 11, 13
4	A/YL-KTN/367	Temporary open storage of light goods vehicles for sale for a period of 3 years	16.12.2011	3, 6, 7, 8, 10, 11, 12, 13, 15
5	A/YL-KTN/381	Renewal of planning approval for temporary open storage of construction machinery, private vehicles and vehicle parts for a period of 3 years under Application No. A/YL-KTN/328	18.5.2012	3, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15
6	A/YL-KTN/389	Temporary open storage of vehicles (lorries, vans and private cars) for sale for a period of 3 years	5.10.2012	1, 3, 6, 7, 10, 11, 13, 14, 15, 16
7	A/YL-KTN/455*	Temporary open storage of private cars for a period of 3 years	2.1.2015	1, 3, 6, 7, 8, 11, 13, 14, 16, 17
8	A/YL-KTN/456	Temporary open storage of light goods vehicles for sale for a period of 3 years	16.1.2015	3, 6, 7, 8, 10, 11, 13, 14, 15, 16, 18

9	A/YL-KTN/462	Renewal of Planning Approval for Temporary Open Storage of Construction Machinery, Private Vehicles and Vehicle Parts under Application No. A/YL-KTN/381 for a period of 3 Years	22.5.2015	3, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16
10	A/YL-KTN/486	Temporary open storage of vehicles (lorries, vans and private cars) for sale for a period of 3 years	6.11.2015	1, 3, 6, 7, 8, 10, 11, 13, 14, 15, 16
11	A/YL-KTN/539	Temporary open storage of vehicles (lorries, vans and private cars) for sale for a period of 3 years	11.11.2016	3, 6, 7, 8, 9, 10, 11, 13, 14
12	A/YL-KTN/580	Temporary open storage of vehicles (lorries, vans and private cars) for sale for a period of 3 years	26.1.2018	3, 6, 7, 8, 10, 11, 13, 15, 16, 19
13	A/YL-KTN/601	Renewal of Planning Approval for Temporary Open Storage of Construction Machinery, Private Vehicles and Vehicle Parts under Application No. A/YL-KTN/462 for a period of 3 years	1.6.2018	3, 5, 6, 7, 9, 10, 11, 13, 15, 16, 18, 19

*straddling "R(D)" and "Open Space" zones.

Approval Conditions

1. the submission and/or implementation of landscaping proposals
2. the setting back of the southern boundary of the application site by 25m from Kam Tin Road, as proposed by the applicant, at any time during the planning approval period;
3. reinstatement of the application site after the expiry of the planning approval
4. the fencing and paving of the application site
5. the stacking height of the vehicles
6. if planning condition is not complied with during the planning approval period or by the specified date, the approval shall cease to have effect and be revoked without further notice
7. no vehicle repairing / dismantling / maintenance / cleansing / painting spraying / workshop activities
8. no medium or heavy goods vehicles or container vehicles should be parked/stored
9. the existing trees should be preserved and the landscaping planting on the site should be maintained
10. the drainage facilities on the application site should be maintained
11. submission and implementation of emergency vehicular access, water supplies for fire-fighting and/or fire service installations

12. the submission and/or provision of run-in proposal
13. restriction on operation hours
14. no reversing of vehicles into or out from the site
15. the submission of record of existing drainage facilities
16. the provision of fire extinguisher(s)
17. the submission and implementation of drainage proposals
18. maintenance of the existing run-in
19. no vehicle is allowed to queue back to or reverse onto/from public road/the site

Rejected Application

	Application No.	Proposed Use	Date of Consideration (RNTPC/TPB)	Main Reasons for Rejection
1	A/YL-KTN/345	Temporary open storage of private vehicles for sale for 3 years	15.10.2010	1, 2, 3

Rejection reasons

1. The development was not in line with the planning intention of the "Residential (Group D)" ("R(D)") zone which was primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, and for low-rise, low-density residential developments subject to planning permission from the Town Planning Board. No strong planning justification had been given in the submission for a departure from the planning intention, even on a temporary basis.
2. The application did not comply with the Town Planning Board PG-No. 13E in that there was no previous approval for open storage use granted at the site, and that the applicant had not included in the submission technical assessments to demonstrate that the development would not generate adverse drainage, traffic and landscaping impacts on the surrounding areas.
3. The approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the "R(D)" zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

Detailed Comments of the Chief Town Planner/Urban Design and Landscape,
Planning Department (CTP/UD&L, PlanD)

- (a) In previous renewal application Nos. A/YL-KTN/491 and A/YL-KTN/395, the same applicant was reminded to closely monitor the health condition of *Delonix regia* (鳳凰木), which is located at the northeastern part of the Site, as the base of its trunk was decaying. According to the site visit conducted on 19.10.2018, further significant decay at root flare was found on the aforementioned tree. The applicant is recommended to (i) engage appropriate qualified professionals to undertake tree assessment, and (ii) provide appropriate measures to reduce tree risk. The applicant is reminded that approval from relevant authorities on the proposed tree risk mitigation works is required.
- (b) Please also make reference to the following promulgated by GLTM Section under DEVB:
- 減低樹木風險的樹木護養簡易圖解:
[https://www.greening.gov.hk/filemanager/content/pdf/tree_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk\(eng\).pdf](https://www.greening.gov.hk/filemanager/content/pdf/tree_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk(eng).pdf)
 - 樹木管理手冊:
https://www.greening.gov.hk/filemanager/content/pdf/tree_care/handbook_TM/HTM_tc_Full_version.pdf
 - 護養樹木的簡易圖解:
https://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf

Good Practice Guidelines for Open Storage Sites

		Internal access for fire appliances	Lot boundaries (clear width)	Distance between storage cluster and temporary structure	Cluster size	Storage height
1.	Open Storage of Containers		2m	4.5m		
2.	Open Storage of non-combustibles or limited combustibles	4.5m	2m	4.5m		
3.	Open Storage of combustibles	4.5m	2m	4.5m	40m x 40m	3m

Remarks: Smoking and naked flame activities shall not be allowed within the open storage/recycling site.

Advisory Clauses

- (a) resolve any land issues relating to the development with the concerned owner of the Site;
- (b) note DLO/YL's comments 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. The Site is accessible from Kam Tin Road via Government land (GL). His office provides no maintenance works for the GL involved and does not guarantee any right-of-way over the GL to the Site. The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA. The STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. The owner(s) of the lot without STW will need to apply to his office to permit the structures to be erected or regularise any irregularities on site, if any. 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 LandsD acting in the capacity as the landlord or lessor 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 LandsD;
- (c) note CHE/NTW, HyD's comments that adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (d) follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses" issued by the EPD;
- (e) note CTP/UD&L of PlanD's comments that further significant decay at root flare was found on the *Delonix regia* (鳳凰木), which is located at the northeastern part of the Site. The applicant is recommended to (i) engage appropriate qualified professionals to undertake tree assessment, and (ii) provide appropriate measures to reduce tree risk. The applicant is reminded that approval from relevant authorities on the proposed tree risk mitigation works is required. The applicant should make reference to 減低樹木風險的樹木護養簡易圖解, 樹木管理手冊 and 護養樹木的簡易圖解. Respective webpages are:
([https://www.greening.gov.hk/filemanager/content/pdf/tree_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk\(eng\).pdf](https://www.greening.gov.hk/filemanager/content/pdf/tree_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk(eng).pdf))
(https://www.greening.gov.hk/filemanager/content/pdf/tree_care/handbook_TM/HTML_t_c_Full_version.pdf)
(https://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf);

- (f) note CE/MN, DSD's comments that the applicant should add cut-off drains at the site boundary abutting the footpath of Kam Tin Road to collect the surface runoff from the Site;
- (g) note D of FS's comments that in consideration of the design/nature of the proposal structures, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans. The applicant is advised to adhere to the 'Good Practice Guidelines for Open Storage Sites' in **Appendix VII** of the RNTPC paper. To address the approval condition on provision of fire extinguisher(s), the applicant should submit a valid fire certificate (FS 251) to his department for approval. The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans; and
- (h) note CBS/NTW, BD's comments that if the existing structures (not being a New Territories Exempted House) are erected on leased land without the 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. 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. Before any new building works (including containers/ open sheds as temporary buildings and land filling) 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 should be appointed as the co-ordinator for the proposed building works in accordance with the BO. 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.