

**Relevant Extracts 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 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 Site

Approved Application

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Condition(s)</u>
1	A/YL-KTN/541	Proposed Temporary Shop and Services (Plant Showroom) for a Period of 3 Years	12.5.2017	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)

Approval conditions

- (1) Restriction on operation hours/time
- (2) Restriction on operation days
- (3) No medium or heavy goods vehicles exceeding 5.5 tonnes including container tractors/trailers were allowed to be parked/stored on or enter/exit the site
- (4) Provision of boundary fencing
- (5) No reversing of vehicle into or out from the site is allowed
- (6) Submission and implementation of landscaping/ tree preservation proposal
- (7) Submission and implementation of drainage proposal/ Maintenance of the implemented drainage facilities on the site
- (8) Submission and implementation of fire service installations proposal
- (9) Revocation of the planning approval if any of the planning conditions is not complied with by the specified dated or during the planning approval period
- (10) Reinstatement of the site to an amenity area

Rejected Application

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Rejection Reason(s)</u>
1	A/YL-KTN/531	Proposed Temporary Shop and Services (Pet Shop with Ancillary Office and Guard Room) for a Period of 3 Years	29.7.2016	(1), (2)

Rejection Reasons

- (1) The development is not in line with the planning intention of the "Agriculture" ("AGR") zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and also to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

- (2) The approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within this part of the "AGR" zone. The cumulative effect of approving such applications would result in the encroachment of good agricultural land, causing a general degradation of the rural environment of the area.

Similar Applications within the Same “AGR” zone on the Kam Tin North OZP

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Conditions</u>
1	A/YL-KTN/413	Temporary Shop and Services (Plant Showroom) for a Period of 3 Years	6.9.2013	(1), (2), (3), (4), (5), (6), (7)
2	A/YL-KTN/446	Temporary Shop and Services (Plant Showroom) for a Period of 3 Years	22.8.2014 [revoked on 22.11.2015]	(1), (2), (3), (4), (5), (6), (7), (8)
3	A/YL-KTN/447	Temporary Shop and Services (Plant Showroom) for a Period of 3 Years	22.8.2014 [revoked on 22.11.2015]	(1), (2), (3), (4), (5), (6), (7), (8)
4	A/YL-KTN/448	Temporary Shop and Services (Plant Showroom) for a Period of 3 Years	17.10.2014 [revoked on 12.1.2016]	(1), (2), (3), (4), (5), (6), (7), (8)
5	A/YL-KTN/540	Temporary Shop and Services (Plant Showroom) for a Period of 3 Years	11.11.2016	(1), (2), (3), (4), (5), (6), (7), (8), (9)
6	A/YL-KTN/637	Proposed Temporary Shop and Services (Retail of Tail Lift) for a Period of 3 Years	4.1.2019	(1), (2), (3), (4), (5), (6), (7), (9), (10)
7	A/YL-KTN/656*	Proposed Temporary Shop and Services (Retail of Tail Lift) for a Period of 3 Years	2.8.2019	(1), (2), (4), (5), (6), (7), (9), (10), (11)

* Straddled the adjacent “I(D)” zone on the OZP

Approval conditions

- (1) Restriction on operation hours/time
- (2) No medium or heavy goods vehicles exceeding 5.5/24 tonnes including container tractors/trailers were allowed to be parked/stored on or enter/exit the site
- (3) Submission and implementation of landscaping/ tree preservation proposal
- (4) Submission and implementation of drainage proposal/ Maintenance of the implemented drainage facilities on the site
- (5) Submission and implementation of fire service installations proposal

- (6) Revocation of the planning approval if any of the planning conditions is not complied with by the specified dated or during the planning approval period
- (7) Reinstatement of the site to an amenity area or to the original state
- (8) Provision of boundary fencing
- (9) No reversing of vehicle into or out from the site is allowed
- (10) No vehicle is allowed to queue back to or reverse onto/from public road
- (11) No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the site

Rejected Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC / TPB)</u>	<u>Rejection Reasons</u>
1	A/YL-KTN/624	Proposed Temporary Shop and Services (Plant Showroom) for a Period of 3 Years	15.2.2019 (on review)	(1), (2)
2	A/YL-KTN/629	Proposed Temporary Shop and Services (Plant Showroom) for a Period of 3 Years	2.11.2018	(1), (2)

Rejection Reasons

- (1) The proposed development is not in line with the planning intention of the “AGR” zone. No strong justification has been given in the submission for a departure from the planning intention, even on temporary basis.
- (2) The applicant fails to demonstrate that the proposed development would not generate environmental nuisance on the surrounding areas.

Advisory Clauses

- (a) note DLO/YL, LandsD's comments that the Site comprises GL and 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. A small part of the Site falls within Tai Kong Po Site of Archaeological Interest. No permission is given for occupation of GL (about 6.33m² subject to verification) included in the Site. Attention is drawn to the fact that any occupation of GL without Government's prior approval is not allowed. The lots owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Furthermore, the applicant has to either exclude the GL from the Site or obtain a formal approval prior to the actual occupation of the GL. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. 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 rent or fee, as may be imposed by the LandsD;
- (b) note C for T's comments that the Site is connected to the public road network via a section of a local access road which is not managed by TD. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly;
- (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. Kong Tai Road is not maintained by his department. His department shall not be responsible for the maintenance of any access connecting the Site and Chi Ho Road;
- (d) 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 DEP;
- (e) note CTP/UD&L, PlanD's comments that the applicant should properly maintain the existing landscape plantings at all times during the planning approval period;
- (f) note CBS/NTW, BD's comments that before any new buildings works (including containers/ open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of BD 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. If the existing structures are erected on leased land without approval of BD (not being a New Territories Exempted

House), they are unauthorized under the BO and should not be designated for any approved use under the application. 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. 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 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;

- (g) note DFEH's comments that for any waste generated from such activities or operations, the applicant should arrange disposal properly at her own expenses. Such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding; and
- (h) note AMO's comments that the applicant is required to inform AMO immediately if antiquities or supposed antiquities are discovered within the Site.