

**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 1,000m<sup>2</sup> for open storage uses and 2,000m<sup>2</sup> 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.

Previous S.16 Applications covering the Application Site

Approved Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration by RNTPC</u>	<u>Approval Condition(s)</u>
1	A/YL-KTS/191	Temporary open storage of vehicles (private cars) for sale/disposal for a period of 3 years	14.1.2000 (revoked on 14.10.2000)	(1), (2), (4), (6), (7)
2	A/YL-KTS/214	Temporary open storage of vehicles for sale/disposal and container trailer/tractor park for a period of 3 years	2.6.2000	(1), (3), (4), (5), (6), (7), (8)
3	A/YL-KTS/300	Temporary open storage of vehicles and container trailers/tractors park for a period of 3 years	21.11.2003 (revoked on 21.5.2004)	(1), (2), (3), (6), (7), (8)
4	A/YL-KTS/318	Temporary open storage of vehicles and container trailers/tractors park for a period of 3 years	27.8.2004	(1), (2), (6), (7), (8)
5	A/YL-KTS/400	Renewal of planning approval for temporary open storage of vehicles and container trailers/tractors park uses for a period of 3 years under Application No. A/YL-KTS/318	10.8.2007 [for 2 years] (revoked on 10.2.2008)	(1), (2), (6), (7), (8), (9), (10)
6	A/YL-KTS/460	Temporary open storage of vehicles and container trailers/tractors park for a period of 3 years	13.3.2009	(1), (2), (6), (7), (8), (9), (11), (12), (13),
7	A/YL-KTS/580	Temporary open storage of vehicles and container trailers/tractors park for a period of 3 years	5.10.2012	(1), (2), (6), (7), (8), (9), (11), (12), (13) (14), (15)
8	A/YL-KTS/675	Renewal of Planning Permission of Temporary open storage of vehicles and container trailers/tractors park for a period of 3 years	18.9.2015	(1), (2), (6), (7), (8),(11), (12), (13), (14), (15)

Approval Conditions:

- (1) submission and implementation of landscape/tree preservation proposal or maintenance of existing trees and landscape planting
- (2) submission and/or provision/maintenance of drainage facilities
- (3) the setting back of site boundary
- (4) the stacking height of the vehicles
- (5) provision of boundary wall and fencing
- (6) reinstatement of the site after the expiry of the planning approval
- (7) if any of the planning conditions is not complied with by the specified date, the approval shall cease to have effect and be revoked without further notice
- (8) if the planning condition is not complied with at all times during the planning approval period, the approval shall cease to have effect and be revoked without further notice
- (9) implementation of traffic monitoring measures
- (10) provision of a 9-litre water type/3kg dry powder fire extinguisher in each of the container-converted offices
- (11) restriction on operation hours
- (12) no vehicle dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities
- (13) submission and implementation of fire service installations proposal
- (14) no reversing of vehicles into or out from the site
- (15) submission and implementation of parking layout plan with dimensions

**Similar Applications within the Same “AGR” Zone on the OZP**

**Approved Applications**

	<b><u>Application No.</u></b>	<b><u>Proposed Use(s)</u></b>	<b><u>Date of Consideration (RNTPC/TPB)</u></b>	<b><u>Approval Condition(s)</u></b>
1.	A/YL-KTS/457	Temporary open storage of vehicles (coaches and tractors / goods vehicles) for sale and ancillary facilities for a period of 3 years	27.2.2009 [revoked on 27.8.2009]	(1), (2), (4), (5), (8), (9), (10)
2.	A/YL-KTS/458	Temporary open storage of private vehicles and vehicle parts for a period of 3 years	27.2.2009 [revoked on 10.7.2009]	(1), (4), (5), (6), (8), (9), (10)
3.	A/YL-KTS/483	Temporary open storage of vehicle parts with ancillary workshop for a period of 3 years	18.12.2009	(1), (3), (4), (5), (6), (9), (10), (11)
4.	A/YL-KTS/488	Temporary open storage of vehicles (coaches and tractors/goods vehicles) for sale and ancillary facilities for a period of 3 years	19.3.2010	(2), (4), (5), (6), (8), (9), (10)
5.	A/YL-KTS/511	Temporary open storage of machinery for a period of 3 years	26.11.2010	(4), (5), (6), (8), (9), (10), (11), (14)
6.	A/YL-KTS/515	Renewal of planning approval for temporary “open storage of vehicle parts with ancillary workshop” for a period of 3 years	10.12.2010	(3), (4), (5), (6), (9), (10), (11)
7.	A/YL-KTS/600	Temporary open storage of machinery (including excavators) for a period of 3 years	24.5.2013 [revoked on 5.7.2013]	(1), (2), (5), (7), (8), (10)
8.	A/YL-KTS/614	Temporary open storage of machinery (including excavators) for a period of 3 years	25.10.2013	(1), (2), (5), (7), (8), (10)
9.	A/YL-KTS/628	Temporary open storage of vehicle parts with ancillary workshop for a period of 3 years	7.2.2014	(1), (3), (4), (5), (6), (7), (9), (10), (11), (12), (13)
10.	A/YL-KTS/687	Temporary open storage of vehicle parts with ancillary workshop for a period of 3 years	8.1.2016	(1), (3), (4), (5), (6),(7), (9), (10), (11), (12), (13)
11.	A/YL-KTS/699	Temporary open storage of vehicles (private car only) and ancillary site office for a period of 3 years	13.5.2016 [revoked on 13.11.2016]	(1), (2), (3), (4), (5), (7), (9), (10), (11), (12)
12.	A/YL-KTS/717	Renewal of planning approval for temporary open storage of machinery (including excavators) and vehicles for sale for a period of 3 years	14.10.2016	(4), (5), (6), (8), (9), (12), (13)

Approval Conditions

- (1) Submission and/or implementation of landscape/tree preservation proposals
- (2) Submission of drainage proposal/drainage impact assessment and/or implementation/provision of drainage facilities/flood mitigation measures
- (3) Fencing of the site
- (4) Reinstatement of the site upon expiry of the planning permission
- (5) If the planning condition was not complied with at all time during the approval period or by a specified date, the approval shall cease to have effect and be revoked without further notice
- (6) Maintenance of landscape plantings/drainage facilities at all times during the planning approval period
- (7) Provision of fire extinguisher within the site
- (8) No vehicle assembling, dismantling, repairing, fixing, washing/cleansing, maintenance, paint spraying or workshop activities on the site
- (9) Restriction on operation hours
- (10) Submission and implementation of fire service installations proposal
- (11) No heavy goods vehicles exceeding 5.5/24 tonnes were allowed to enter/exit or stored at the Site at any time during the planning approval period
- (12) No reversing of vehicles into or out from the site
- (13) Submission of drainage record
- (14) No vehicles exceeding 10m to enter/exit the site

Rejected Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Rejection Reason(s)</u>
1	A/YL-KTS/667	Temporary metal recycling centre and open storage of scrap metal, concrete and machinery with ancillary office for a period of 3 years	5.6.2015	(1), (2), (3)
2	A/YL-KTS/685	Temporary open storage (Concrete from demolished buildings) for a period of 3 years	8.1.2016	(1), (2), (3)

Rejection Reasons

- (1) The development is not in line with the planning intention of the "Agriculture" zone.
- (2) Not comply with the Town Planning Board Guidelines for "Application for Open Storage and Port Back-up Uses" in that the development is not compatible with the surrounding land uses. The residential dwellings/structures which are located to the immediate west of the site and in the vicinity would be susceptible to adverse environmental nuisance generated by the development and adverse comment from the relevant government department and local objections were received
- (3) The applicant fails to demonstrate that the development would not generate adverse environmental and drainage impacts on the surrounding areas.



**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 access to the development with the concerned land owners;
- (b) note DLO/YL, LandsD's comments that the Site comprises Old Scheduled 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 to Kam Tin Road via Government Land (GL). His office provides no maintenance work 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 (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 to regularize any irregularities (if any) on site. The owner(s) of the lot without STW will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Such application(s) 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 C for T's comment that the Site is connected to the public road network via a section of a local access road which is not managed by the Transport Department (TD). The land status of the local access road to the Site from Kam Tin Road should be checked with LandsD. Moreover, relevant management and maintenance authorities on using the road for accessing the Site should be consulted;
- (d) note CHE/NTW, HyD's comments that HyD does not and will not maintain any access connecting the Site and Kam Tin Road. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (e) 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 to minimize any potential environmental nuisance;
- (f) note D of FS's comments that in consideration of the design/nature of the proposal, 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 applicant should be advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans. The

good practice guidelines for open storage store (**Appendix VI** of the RNTPC paper) should be adhere to. To address the approved condition on provision of fire extinguisher(s), the applicant should submit a valid fire certificate (FS251) 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

- (g) note CBS/NTW, BD's comments that if the existing structures are erected on leased land without approval of the BD (not being a New Territories Exempted House), they are unauthorized under the BO and should not be designated for any use under application. 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 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 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 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 Building (Planning) Regulation at the building plan submission stage.