

**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.

**Appendix III of RNTPC
Paper No. A/YL-KTS/795**

Previous application covering the application site

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)/ Development(s)</u>	<u>Date of Consideration By RNTPC</u>	<u>Approval Conditions</u>
1	A/YL-KTS/524	Temporary private car park (private vehicles and light goods vehicles) for a period of 3 years	18.2.2011	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
2	A/YL-KTS/582	Temporary shop and services (real estate agency) for a period of 3 years	19.10.2012	(2), (3), (7), (8), (9), (11), (12), (13)
3	A/YL-KTS/676	Renewal of Planning Approval for Temporary "Shop and Services (Real Estate Agency)" for a Period of 3 Years	18.9.2015	(2), (3), (7), (8), (9), (11), (12), (13)

Approval Conditions:

- (1) No vehicles without valid licences issued under the Traffic Regulations are allowed to be parked/stored on the site
- (2) Submission and implementation of landscape/tree preservation proposal or maintenance of existing trees and landscape planting
- (3) Submission and/or provision/maintenance of drainage facilities
- (4) No medium or heavy goods vehicles exceeding 5.5 tonnes as defined in the Road Traffic Ordinance and container vehicles were allowed to be parked/stored on the site
- (5) No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities should be carried out at the site during the planning approval period
- (6) The proposed development should not be operated on a commercial basis
- (7) Submission and implementation of fire service installations proposal
- (8) Revocation of the planning approval if the planning conditions were not complied with during the planning approval period or by specified dates
- (9) Reinstatement of the site to an amenity area
- (10) The existing boundary fencing on the site should be maintained
- (11) Restriction on operation hours
- (12) No reversing of vehicles into or out from the site
- (13) Submission of drainage record

Rejected Application

	<u>Application No.</u>	<u>Proposed Use(s)/ Development(s)</u>	<u>Date of Consideration By RNTPC</u>	<u>Rejection Reasons</u>
1	A/YL-KTS/512	Temporary open storage of construction material for a period of 3 years	26.11.2010	(1), (2), (3), (4)

Rejection Reasons

- (1) The development was not in line with the planning intention of the "Village Type Development" ("V") zone and the development was incompatible with the surroundings which were predominantly rural and residential in character. No strong planning justification had been given in the submission for a departure from the planning intention, even on a temporary basis;
- (2) The development did not comply with 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) in that there was no exceptional circumstance that warranted sympathetic consideration. There was no previous planning approval granted for the site and there were adverse departmental comments and local objection against the development;
- (3) The applicant failed to demonstrate in the submission that the development would not generate adverse environmental, traffic, landscape and drainage impacts on the surrounding areas.
- (4) The approval of the application would set an undesirable precedent for similar applications within the "V" zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

Appendix IV of RNTPC
Paper No. A/YL-KTS/795

Similar Applications within the Adjoining “V” Zone on the OZP

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)/ Development(s)</u>	<u>Date of Consideration By RNTPC</u>	<u>Approval Conditions</u>
1	A/YL-KTS/502	Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	10.9.2010	(1), (2), (4), (5), (6), (7)
2	A/YL-KTS/648	Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	17.10.2014 [revoked on 17.10.2015]	(1), (2), (3), (4), (5), (6), (7), (8), (9)
3	A/YL-KTS/758	Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	22.12.2017	(2), (4), (5), (6), (7)
4	A/YL-KTS/782	Proposed Temporary Shop and Services (Martial Art Goods Retail Store) for a Period of 3 Years	18.5.2018	(2), (4), (5), (6), (7)

Approval Conditions:

- (1) Submission and implementation of landscape/tree preservation proposal
- (2) Submission and/or provision/maintenance of drainage facilities
- (3) No medium or heavy goods vehicles exceeding 5.5 tonnes as defined in the Road Traffic Ordinance and container vehicles were allowed to be parked/stored on the site
- (4) Submission and implementation of fire service installations proposal
- (5) Revocation of the planning approval if the planning conditions were not complied with during the planning approval period or by specified dates
- (6) Reinstatement of the site to an amenity area
- (7) Restriction on operation hours
- (8) No reversing of vehicles into or out from the site
- (9) Submission of drainage record

Advisory Clauses

- (a) resolve any land issues relating to the development with the concerned land owner(s) of the Site;
- (b) note DLO/YL, LandsD's comments that the Site comprises an Old Scheduled Agricultural 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 Site is located within "V" zone and the village environs of Kam Tin Shi. Under the prevailing policy, land within "V" zone or village environ is primarily reserved for development of NTEH by indigenous villagers under the NT Small House Policy. The Site is accessible from Kam Sheung Road via Government Land (GL) and private land. 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 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 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 the LandsD;
- (c) note C for T's comment that the applicant is reminded that sufficient space within the Site should be provided for manoeuvring of vehicles. 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 Sheung 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 applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance BO (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, they are unauthorized under the BO and should not be designated for any approved use under application. Before any new building works are to be carried out on the Site, the 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 BA. It appears that the Site does not abut on a specified street having a width of not less than 4.5m wide, in such respect, the development intensity shall be determined under the Building (Planning) Regulations 19(3) at building plan submission stage. The Site shall be provided with means of obtaining access thereto from a street under the Building (Planning) Regulations 5 and emergency vehicular access shall be provided under the Building (Planning) Regulation 41D. For UBW erected on leased land, enforcement action may be taken by the BA 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 structures may be considered as temporary buildings and are subject to control under the Building (Planning) Regulations Pt. VII.