

**Relevant Extract 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 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.

**Relevant Extract of Town Planning Board Guidelines for
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 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-KTS/798

Previous s.16 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-KTS/208	Proposed temporary open storage of vehicles and vehicle parts for a period of 3 years	1.9.2000 for 3 years on review	(1), (2), (3), (4), (5), (6)
2.	A/YL-KTS/310	Temporary open storage of vehicles and vehicle parts for a period of 3 years	27.2.2004 for 18 months	(3), (5), (6), (7), (8)
3.	A/YL-KTS/354	Temporary open storage of vehicles and vehicle parts for a period of 3 years	11.11.2005 for 3 years	(1), (3), (5), (6), (7), (8), (9), (10), (11)
4.	A/YL-KTS/450	Temporary open storage of vehicles and vehicle parts for a period of 3 years	23.1.2009 for 3 years (revoked on 23.7.2009)	(3), (5), (6), (7), (8), (10), (11), (12)
5.	A/YL-KTS/474	Temporary open storage of vehicles and vehicle parts for a period of 3 years	23.10.2009 for 3 years	(3), (5), (6), (7), (8), (10), (11), (12)
6.	A/YL-KTS/579	Renewal of planning approval for temporary open storage of vehicles and vehicle	5.10.2012 for 3 years	(1),(2), (3), (5), (6), (7), (8), (10), (11), (12), (13), (14), (15),

		parts for a period of 3 years		
7.	A/YL-KTS/678	Renewal of planning approval for temporary open storage of vehicles and vehicle parts for a period of 3 years	9.10.2015 for 3 years	(2), (3), (5), (6), (7), (8), (10), (11), (12), (13), (15), (16)

Approval Conditions:

- (1) submission and implementation of tree preservation / landscape proposals
- (2) provision of drainage facilities/ submission of records of the existing drainage facilities
- (3) reinstatement of the application site after the expiry of the planning approval
- (4) fencing and paving of the site
- (5) stacking height of vehicles
- (6) if any of the planning conditions is not complied with at any time during the planning approval period / by the specified date, the approval shall cease to have effect and be revoked without further notice
- (7) restriction in operation hours
- (8) the maintenance of landscape planting/drainage facilities
- (9) the setting back of the southern boundary of the site
- (10) no workshop, vehicle repairing, dismantling, maintenance, cleansing and paint spraying activities
- (11) no machinery is allowed to be stored at the site
- (12) provision of fire extinguisher(s) together with a valid fire certificate (FS251)/ submission and/or implementation of fire service installations proposal
- (13) no heavy goods vehicles exceeding 24 tonnes including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the site
- (14) the maintenance of the loading/unloading space and the ingress/egress
- (15) no reversing of vehicles into or out from the site
- (16) submission and implementation of a run-in/out at the access point of Kam Sheung Road

Similar s.16 Applications within “Agriculture” Zone on Kam Tin South OZP

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/530	Renewal of Planning Approval for “Temporary Open Storage of Vehicles (Pending Repair and Insurance Compensation) and Spare Parts” under Application No. A/YL-KTS/419 for a Period of 3 Years	15.4.2011 for 3 Years	(3), (4), (5), (7), (8), (9), (10), (11), (12), (13), (14)
2.	A/YL-KTS/636	Renewal of Planning Approval for “Temporary Open Storage of Vehicles (Pending Repair and Insurance Compensation) and Spare Parts” under Application No. A/YL-KTS/530 for a Period of 3 Years	4.4.2014 for 3 Years (Revoked on 30.5.2014)	(1), (2), (3), (4), (5), (7), (8), (9), (10), (11), (12), (14)
3.	A/YL-KTS/652	Temporary open storage of vehicles (including vehicles pending repair and insurance compensation) and spare parts for a period of 3 years	31.10.2014 for 3 Years	(1), (2), (3), (4), (5), (7), (8), (9), (10), (11), (12), (14)
4.	A/YL-KTS/750	Renewal of Planning Approval for Temporary Open Storage of Vehicles (Pending Repair and Insurance Compensation) and Spare Parts for a Period of 3 Years	22.9.2017 for 3 Years	(1), (2), (3), (4), (5), (7), (9), (10), (11), (14),

Approval Conditions:

- (1) submission and implementation of landscaping/ tree preservation proposals/maintenance of existing trees and landscaping planting on the site
- (2) submission/provision of drainage facilities/ maintenance of existing drainage facilities on the site/submission of a record of the existing drainage facilities
- (3) reinstatement of the application site after the expiry of the planning approval
- (4) the stacking height of the vehicles
- (5) if planning condition is not complied with at any time/by specified date, the approval shall cease to have effect and be revoked without further notice
- (6) the submission/provision of environmental mitigation measures
- (7) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities
- (8) the maintenance of landscape/drainage facilities
- (9) restriction on operation hours
- (10) no medium or heavy goods vehicle exceeding 5.5 tonnes, including container vehicles, as defined in the Road Traffic Ordinance
- (11) no vehicular reversing in or out from the site to Kam Sheung Road/ no vehicle is allowed to queue back to or reverse onto/from public road
- (12) submission of a record of the existing drainage facilities
- (13) submission/provision of a run-in proposal at Kam Sheung Road
- (14) submission/provision of fire service installations (FSIs)/ provision of fire extinguisher(s) with a valid fire certificate (FS 251)/implemented of the accepted FSIs proposal

Appendix VI of RNTPC
Paper No. A/YL-KTS/798

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 owners of the Site;
- (b) the Site should be kept in a clean and tidy condition at all times;
- (c) note DLO/YL, LandsD's comments that the Site comprises Government Land (GL) and an Old Schedule 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. No permission is given for occupation of GL (about 25.71m² subject to verification) included in the Site. Any occupation of GL without Government's prior approval is not allowed. The Site is accessible from Kam Sheung Road via 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 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. 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. Furthermore, the applicant has to either exclude the GL portion from the Site or apply for a direct grant STT for use of the Site. 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;
- (d) 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 Transport Department (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;
- (e) 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;
- (f) follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Open Storage and Temporary Uses" issued by the DEP;
- (g) note DAFC's comments that the applicant should adopt necessary measures to prevent polluting the watercourses to the south and south-east of the Site during operation as far as practicable;

- (h) note CTP/UD&L's comments that some existing trees (i.e. those located at the north and south side of the Site), being maintained for compliance with the landscape condition under the previous application No. A/YL-KTS/678 were in poor conditions, such as serious leaning, wounds from improper pruning cut, broken branches, sparse foliage density and tree trunk with cavity or wound etc. Replacement tree planting are required for these existing trees in an irrecoverable health condition. The applicant shall maintain all existing trees in good conditions during the approval period;
- (i) 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 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 should also adhere the "Good Practice Guidelines for Open Storage Sites" in **Appendix VI** of this 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 (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans; and
- (j) note CBS/NTW, BD's comments that before any new building works (including containers/open sheds as temporary buildings) 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 BO. If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of his department, 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 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 (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.