

**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.

Previous s.16 Applications covering the application site within the "R(D)" zone
on the Kam Tin South OZP

Approved Applications

	Application No.	Proposed Use(s)	Date of Consideration (RNTPC/TPB)	Approval Condition(s)
1.	A/YL-KTS/127	Temporary storage of lorries and private vehicles and vehicle adaptation workshop for a period of 12 months	31.7.1998	(1), (2), (3)
2.	A/YL-KTS/168	Temporary storage of vehicles and vehicle adaptation workshop for a period of 12 months	2.7.1999	(1), (2), (3)
3.	A/YL-KTS/221	Temporary storage of vehicles and modification workshop for vans and lorries for a period of 3 years	11.8.2000 [revoked on 11.5.2001]	(2), (3), (4)
4.	A/YL-KTS/259	Temporary open storage of vehicles and modification workshop for vans and lorries for a period of 3 years	1.2.2002 on review	(1), (2), (3), (4), (5)
5.	A/YL-KTS/335	Temporary open storage of vehicles and modification workshop for vans and lorries for a period of 3 years	18.2.2005	(3), (4), (6), (7), (8), (9)
6.	A/YL-KTS/417	Temporary open storage of vehicles and modification workshop for vans and lorries for a period of 3 years	28.3.2008 [revoked on 28.9.2008]	(2), (3), (4), (6), (7), (9), (10)
7.	A/YL-KTS/461	Temporary open storage of vehicles and modification workshop for vans and lorries for a period of 3 years	27.3.2009	(2), (3), (4), (6), (7), (10), (11), (12), (13)

	Application No.	Proposed Use(s)	Date of Consideration (RNTPC/TPB)	Approval Condition(s)
8.	A/YL-KTS/594	Temporary open storage of vehicles and modification workshop for vans and lorries for a period of 3 years	8.2.2013	(3), (4), (6), (7), (8), (9), (10), (13), (14), (15), (16)
9.	A/YL-KTS/684	Temporary open storage of vehicles and modification workshop for vans and lorries for a period of 3 years	18.12.2015	(3), (4), (6), (7), (8), (9), (10), (14),(15),(16)

Approval Conditions:

- (1) Submission and implementation of landscaping proposals
- (2) Submission and provision of drainage facilities
- (3) Reinstatement of the site to an amenity area upon expiry of the planning permission
- (4) If the planning condition is 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
- (5) Submission and provision of environmental mitigation measures
- (6) No paint-spraying activities should be carried out at the open area
- (7) Maintenance of the landscape plantings on the site
- (8) Maintenance of the drainage facilities on the site
- (9) Provision of fire extinguisher in the site office/fire service installations
- (10) Restriction on operation hours / time
- (11) No heavy vehicles, i.e. over 24 tonnes were allowed for the operation of the site.
- (12) Iron fence erected against the existing trees and materials stored against the tree trucks must be removed
- (13) The submission and implementation of fire service installations proposal
- (14) No medium or heavy goods vehicles exceeding 5.5 tonnes
- (15) No reversing of vehicles into or out from the site is allowed at any time during the planning approval period
- (16) Submission of records of the existing drainage facilities on the site

Similar Applications within the Same and the Adjoining "R(D)" Zones
on Kam Tin South OZP

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
1.	A/YL-KTS/463	Renewal of planning approval for Temporary Open Storage of Vehicles and Vehicle Parts for a Period of 3 Years	8.5.2009	(1), (2), (3), (4), (5), (6), (7), (8), (15)
2.	A/YL-KTS/482	Renewal of planning approval for temporary open storage of vehicle parts for a period of 3 years	18.12.2009	(1), (2), (3), (6), (7), (8), (10), (14), (15)
3.	A/YL-KTS/528	Temporary open storage of used motor vehicles for export, used electrical appliances and children's toys for a period of 3 years	1.4.2011	(1), (2), (3), (4), (5), (6), (11), (12), (13)
4.	A/YL-KTS/563	Temporary Open Storage of Vehicles and Vehicle Parts for a Period of 3 Years	18.5.2012	(1), (2), (3), (4), (5), (6), (7), (8), (15)
5.	A/YL-KTS/584	Renewal of planning approval for temporary open storage of vehicle parts for a period of 3 years	7.12.2012 [Revoked on 18.6.2013]	(1), (2), (3), (5), (6), (7), (8), (14), (15), (16)
6.	A/YL-KTS/611	Temporary open storage of vehicle parts for a period of 3 years	25.10.2013 [Revoked on 25.1.2014]	(1), (2), (3), (4), (5), (6), (7), (8), (14), (15), (16)
7.	A/YL-KTS/637.	Temporary open storage of construction materials with ancillary site office and staff restrooms for a period of 3 years	4.4.2014	(1), (2), (3), (4), (5), (6), (11), (13)

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
8.	A/YL-KTS/655	Temporary open storage of metal and construction materials with ancillary office	2.1.2015	(1), (2), (3), (4), (6), (7), (8), (13), (14), (16), (16)
9.	A/YL-KTS/665	Temporary Open Storage of Vehicles and Vehicle Parts for a Period of 3 Years	22.5.2015	(1), (2), (3), (4), (5), (6), (7), (8), (15)
10.	A/YL-KTS/730	Renewal of Planning Approval for Temporary Open Storage of Construction Materials with Ancillary Site Office and Staff Restrooms for a period of 3 years	3.3.2017	(1), (2), (3), (4), (5), (6), (7), (8), (11), (13), (15), (16)
11.	A/YL-KTS/763	Temporary open storage of metal and construction materials with ancillary office for a period of 3 years	22.12.2017	(1), (2), (3), (4), (5), (6), (7), (8), (13), (15), (16)
12.	A/YL-KTS/776	Renewal of Planning Approval for Temporary open storage of Vehicle and Vehicle Parts for a period of 3 Years	16.3.2018	(1), (2), (3), (4), (5), (6), (7), (8), (15), (16)
13.	A/YL-KTS/794	Temporary Open Storage of Vehicles and Vehicle Parts with ancillary Office for a Period of 3 Years	17.8.2018	(1), (2), (3), (4), (5), (6), (7), (8), (15), (16)

Approval Conditions:

- (1) Restriction on operating hours
- (2) No medium or heavy good vehicles exceeding 5.5 tonnes were allowed for the operation
- (3) No dismantling, maintenance, repairing, cleansing, paint spraying or workshop activities were allowed
- (4) The submission and/or implementation of tree preservation proposal and/or maintenance of the landscape plantings on the site
- (5) The submission of the existing drainage record and/or maintenance of the drainage facilities on the site
- (6) The submission and implementation of fire service installation proposal
- (7) If the planning condition is 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
- (8) Reinstatement of the site to an amenity area upon expiry of the planning permission

- (9) Iron fence erected against the existing trees and materials stored against the tree trucks must be removed
- (10) The submission and implementation of drainage proposals
- (11) No disturbance to the mitigation planting areas to preserve and protect the vegetation of the site
- (12) No storage or handling of electronic and computer waste
- (13) Maintenance of existing fencing
- (14) No heavy vehicles exceeding 24 tonnes were allowed
- (15) The provision of fire extinguishers
- (16) No vehicle is allowed to queue back to/or reverse onto/from public road

Rejected Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejection Reason(s)</u>
1	A/YL-KTS/536	Temporary Car Breaking Workshop and Open Storage of Vehicles and Vehicle Parts with Ancillary Office for a Period of 3 Years	20.5.2011	(1), (2), (3)
2	A/YL-KTS/599	Temporary Warehouse and Ancillary Office and Open Storage (Power Generator, Machinery and Parts) Use for a Period of 3 Years	13.9.2013 [on review]	(1), (2), (3)

Rejection Reasons

- (1) Not in line with the planning intention of the zone.
- (2) The application did not comply with the Town Planning Board PG-No. 13E in that there was no previous approval for workshop and open storage use granted at the site and there were adverse departmental comment and local objections against the application
- (3) The approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications

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(s) of the Site;
- (b) note DLO/YL, LandsD'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. Lot Nos. 1319 and 1336 S.A in D.D. 106 within the Site are covered by a Short Term Waiver (STW) No. 3884 to permit structures erected thereon for the purpose of "temporary open storage of vehicles and modification workshop of vans and lorries". The Site is accessible from Kam Shui 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 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. 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 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;
- (d) note CHE/NTW, HyD's comments that HyD does not and will not maintain any access connecting the Site and Kam Sheung Road, Kam Shui South Road or Kam Shui Road. The applicant should be responsible for his own access arrangement. 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 Open Storage and Temporary Uses" issued by the DEP;
- (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 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

- (g) 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.