

**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-PH/782**

Previous s.16 Applications covering the Application Site¹

Approved Applications

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Conditions</u>
1	A/YL-PH/99	Temporary composting use	11.7.1997 (approved for 12 months)	(1), (2), (4)
2	A/YL-PH/255	Temporary composting use for 12 months	22.1.1999	(1), (2), (4)
3	A/YL-PH/330	Temporary composting use for 3 years	14.4.2000	(1), (2), (3), (4)
4	A/YL-PH/575	Temporary open composting use for 3 years	27.2.2009	(1), (2), (3), (4), (5), (6), (7), (8)
5	A/YL-PH/659	Temporary open storage of construction materials with ancillary site office for a period of 3 years	8.2.2013 [Revoked on 8.11.2013]	(1), (2), (3), (5), (6), (7), (9), (10), (11), (12)
6	A/YL-PH/719	Temporary open storage of Construction Material for a period of 3 years	7.8.2015	(1), (3), (4), (5), (6), (7), (8), (10), (11), (13)

Approval Conditions

- (1) Submission and implementation of landscaping proposals within a specified time limit
- (2) Submission of drainage proposals and/or provision of drainage facilities within a specified time limit
- (3) Revocation of the planning approval if any of the planning conditions is not complied with by the specified dates or during the planning approval period
- (4) Reinstatement of the application site to an amenity area upon expiry of the planning permission.
- (5) Restriction on operation hours
- (6) No workshop activities

¹ Application No. A/YL-PH/698 covering Lot 1866 in D.D. 111 is counted as similar application as it only covers a small portion of the site for the current application.

- (7) No medium or heavy goods vehicles as defined in Road Traffic Ordinance or container trailers/tractors are allowed
- (8) Provision of peripheral fencing
- (9) Implementation of environmental mitigation measures
- (10) Provision of fire extinguisher(s)
- (11) Submission of fire services installations proposal within a specified time limit
- (12) Reinstatement of the site, at the applicant's own cost, to a condition which is suitable for agricultural uses with a view to preserving agricultural land
- (13) Maintenance of existing drainage facilities and submission of existing drainage record

Rejected Application

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC)</u>	<u>Rejection Reasons</u>
1	A/YL-PH/235*	9 temporary open storage yards of construction materials for a period of 12 months.	30.10.1998	(1), (2), (3), (4), (5)

*Remark: The site straddles "AGR" and "V" zones on the OZP.

Rejection Reasons

- (1) The proposed development was not in line with the planning intention of the "Agriculture" ("AGR") zone which was to retain and safeguard good agricultural land for agricultural purposes and to retain fallow arable land with good potential for rehabilitation, and was not in line with the planning intention of the "Village Type Development" ("V") zone which was to designate both existing recognized villages and areas of land considered suitable for village expansion. No strong justification had been given in the submission for a departure from such planning intentions even on a temporary basis.
- (2) The proposed development did not comply with the Town Planning Guidelines for "Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance" in that it was incompatible with the village settlements of Leung Uk Tsuen and the nearby domestic structures.
- (3) The proposed vehicular access leading to the site from Kam Tin Road would be via a sub-standard track passing through the existing village settlements in Wang Toi Shan San Tsuen. The frequent transportation of construction materials to and from the site in large quantities would generate adverse noise and traffic impacts on the nearby village settlements.
- (4) There was insufficient information in the submission to demonstrate that the development would not have adverse drainage impact on the surrounding areas.

- (5) Approval of the application would set an undesirable precedent for similar uses to penetrate into the "AGR" and "V" zones. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.



Similar applications within the same “AGR” zone or straddling the same “AGR” zone and the adjoining “V” zone on the Pat Heung 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-PH/603	Renewal of planning approval for temporary “open storage of private cars and lorries” for a period of 3 years	29.1.2010	(1), (2), (3), (5), (6), (7), (8), (9)
2	A/YL-PH/608	Temporary open storage of second-hand vehicles for display and export for a period of 2 years	28.1.2011 [Revoked on 28.9.2012]	(1), (2), (3), (4), (5), (6), (7), (8), (9)
3	A/YL-PH/616	Temporary open storage of backdrop screens, advertising aluminium frames and construction materials for a period of 3 years	28.1.2011	(1), (2), (3), (4), (5), (6), (7), (8), (9)
4	A/YL-PH/635	Temporary building materials and automotive parts storage yard and ancillary staff canteen for a period of 3 years	20.1.2012 [Revoked on 20.4.2013]	(1), (2), (3), (5), (6), (7), (8), (15)
5	A/YL- PH/658	Renewal of planning approval for temporary “open storage of private cars and lorries” for a period of 3 years	25.1.2013 [Revoked on 29.7.2013]	(1), (2), (3), (5), (6), (7), (8), (9), (10), (11)
6	A/YL-PH/666	Temporary open storage of second-hand vehicles for export, vehicle parts and construction materials	7.6.2013	(1), (2), (3), (4), (5), (6), (7), (8), (9), (12)
7	A/YL-PH/667	Temporary open storage of building materials, second-hand vehicles and automotive parts with ancillary staff canteen for a period of 3 years	5.7.2013 [Revoked on 5.10.2013]	(1), (2), (3), (5), (6), (7), (8), (12), (14), (15)
8	A/YL-PH/680	Temporary open storage (private cars and lorries) for a period of 3 years	13.12.2013	(1), (2), (3), (5), (6), (7), (8), (9), (10), (11), (12), (13)
9	A/YL-PH/683	Temporary open storage of building materials, second-hand vehicles and automotive parts with ancillary staff canteen for a period of 3 years	7.2.2014	(1), (2), (3), (5), (6), (7), (8), (12), (14), (15)
10	A/YL-PH/686	Temporary open storage of backdrop screens, advertising aluminium frames and construction materials for a period of 3 years	4.4.2014	(1), (2), (3), (5), (6), (7), (8), (9), (10), (12)
11	A/YL-PH/701	Temporary open storage of backdrop screens, advertising aluminium frames and construction materials for a period of 3 years	26.9.2014	(1), (2), (3), (5), (6), (7), (8), (9), (10), (12)

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition (s)</u>
12	A/YL-PH/724	Temporary Open Storage (Private Cars and Lorries) for a period 3 years	22.1.2016 (revoked on 22.12.2017)	(1), (2), (3), (5), (6), (7), (8), (9) (10), (11), (12), (13)
13	A/YL-PH/733	Temporary Open Storage of Second-Hand Vehicles for Export, Vehicle Parts and Construction Materials for period of 3 years	10.6.2016	(1), (2), (3), (5), (6), (7), (8), (9) (10), (12)
14	A/YL-PH/740	Temporary Open Storage of Building Materials, Second-hand Vehicles and Automotive Parts with Ancillary Staff Canteen for a period of 3 years	12.5.2017	(1), (2), (3), (5), (6), (8), (9), (10), (11), (12),
15	A/YL-PH/756	Temporary Open Storage of Backdrop Screens, Advertising Aluminium Frames and Construction Materials for a period of 3 years	22.9.2017	(1), (2), (3), (5), (7), (8), (9), (10), (11), (12)

Approval conditions

- (1) Restriction on operation hours/time
- (2) No medium or heavy goods vehicles or container trailers/tractors
- (3) No dismantling, maintenance, modification, repairing, cleansing, paint spraying or other workshop activities
- (4) Provision of boundary fencing, or maintenance of existing boundary fencing
- (5) Submission and/or implementation of landscaping and/or tree preservation proposal, or maintenance of landscape plantings within the site
- (6) Submission and/or implementation of drainage proposal or maintenance the existing drainage facilities on the site
- (7) Submission and implementation of fire service installations proposal
- (8) Revocation of the planning approval if any of the planning conditions is not complied with by the specified date or during the planning approval period
- (9) Reinstatement of the site to an amenity area or to the original state
- (10) Submission of record of the existing drainage facilities
- (11) No reversing of vehicles into or out from the site was allowed at any time during the planning approval period
- (12) Provision of fire extinguisher(s)
- (13) Submission and/or implementation of a run-in/out proposal
- (14) No disturbance/diversion to and no filling of the stream/watercourse within the site is allowed at any time during the planning approval period
- (15) Reinstatement of the site, at the applicant's own cost, to a condition which is suitable for agricultural uses with a view to preserving agricultural land

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-PH/645	Proposed Temporary Open Storage of Soil from Cut-and-Cover Method and Building Materials for a Period of 3 Years	24.8.2012	(1), (2), (3), (4)
2	A/YL-PH/678	Proposed Temporary Open Storage of soil and construction materials with ancillary site office and staff rest room for a Period of 3 Years	8.11.2013	(1), (2), (3), (4)
3	A/YL-PH/687	Proposed Temporary Open Storage of Horticultural Plants with Greenhouse for a Period of 3 Years	25.4.2014	(1), (2), (3), (4)
4	A/YL-PH/698 #	Proposed Temporary Open Storage of construction materials and containers with parking of heavy vehicles for a Period of 3 Years	9.1.2015 (on review)	(1), (2), (3), (4)
5.	A/YL-PH/752	Proposed Temporary Open Storage of Construction Materials for a Period of 3 Years	11.8.2017	(1), (2), (4)
6.	A/YL-PH/770	Temporary Open Storage (Private Cars and Lorries) for a Period of 3 Years	16.3.2018	(5)

Remarks:

Application straddles the same "AGR" zone and the adjoining "V" zone on the OZP.

Rejection Reasons

- (1) The development was not in line with the planning intention of the "AGR" (and "V" for A/YL-PH/698) zone. No strong 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 "Open Storage and Port Back-up Uses", in that it was not compatible with the surrounding areas and/or falling within Category 3 areas with no previous approval granted at the site and/or falling within Category 4 areas which would normally be rejected.
- (3) The applicant failed to demonstrate that the development would not have adverse drainage and environmental impacts on the surrounding areas.
- (4) The approval of the application would set an undesirable precedent. The cumulative effect would result in a general degradation of the environment of the area.
- (5) Applications with repeated revocations should be rejected unless genuine efforts had been demonstrated. Repeated non-compliance, whether the application was submitted by the same applicant and for the same applied use would be taken into account.



Detailed Comment from CTP/UD&L, PlanD

- (a) Noting two self-seeded *Leucaena leucocephala* (銀合歡) are found in the same planter of the existing landscaping trees at the western boundary, applicant is advised to remove those self-seeded trees to facilitate healthy growth of the landscaping trees;
- (b) Noting the sparse foliage of the landscaping trees along the western boundary, healthy condition of those trees should be closely monitored;
- (c) Applicant is advised to rectify the tilted landscaping tree at the southwest corner to upright position and reinstate the broken concrete planter;
- (d) Applicant is advised to remove the weeds growing within tree planters to facilitate healthy growth of the landscape trees; and
- (e) Applicant is advised to remove objects/garbage within tree planters to facilitate healthy growth of the landscape trees.



**Appendix VII of RNTPC
Paper No. A/YL-PH/782**

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. The Site is accessible to Kam Tin 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 the SKAHRA. The lot owner(s) 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 landlord or lessor at its sole discretion and there is no guarantee that such application 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 TD. The land status of the local access road should be checked with 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 his department does not and will not maintain any access connecting the Site and Kam Tin Road. The applicant should be responsible for his own access arrangement;
- (e) note DAFC's comments that there are watercourses to the north and south of the Site. The applicant should be advised to adopt good site practice and necessary measures to avoid polluting and disturbing these watercourses during operation;
- (f) adopt relevant mitigation measures as set out in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by DEP to minimise any potential environmental nuisances;
- (g) note CTP/UD&L of PlanD's comments that the two self-seeded *Leucaena leucocephala* (銀合歡) are found in the same planter of the existing landscaping trees at the western boundary, applicant is advised to remove those self-seeded trees to facilitate healthy growth of the landscaping trees. Noting the sparse foliage of the landscaping trees along the western boundary, health condition of those trees should be closely monitored. Applicant is advised to rectify the tilted landscaping tree at the southwest corner to upright position

and reinstate the broken concrete planter. Applicant is advised to remove the weeds growing within tree planters to facilitate healthy growth of the landscape trees. Applicant is advised to remove objects/garbage within tree planters to facilitate healthy growth of the landscape trees;

- (h) note CE/C, WSD's comments that no structure shall be erected over the Waterworks Reserve as shown on **Plan A-2** of the RNTPC paper and such area shall not be used for storage purposes. The Water Authority and his officers and contractors, his or their workmen shall have free access at all times to the said area with necessary plant and vehicles for the purpose of laying, repairing and maintenance of water mains and all other services across, through or under it which the Water Authority may require or authorize. Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site;
- (i) note D of FS's comments that the installation/maintenance/modification/repair work of fire service installation (FSI) shall be undertaken by a Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/ maintenance modification/ repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to him. The applicant should observe the "Good Practice Guidelines for Open Storage Sites" in **Appendix VII** 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; and
- (j) note CBS/NTW, BD's comments that if the existing structures are erected on leased land without approval of BD (not being a New Territories Exempted House), they are UBW under the BO and should not be designated for any approved use under the 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 BD should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person 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 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 4.5 m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.