

**Relevant Extracts of Town Planning Board Guidelines on
Application for Open Storage and Port Back-up Uses
(TPB PG-No.13F)**

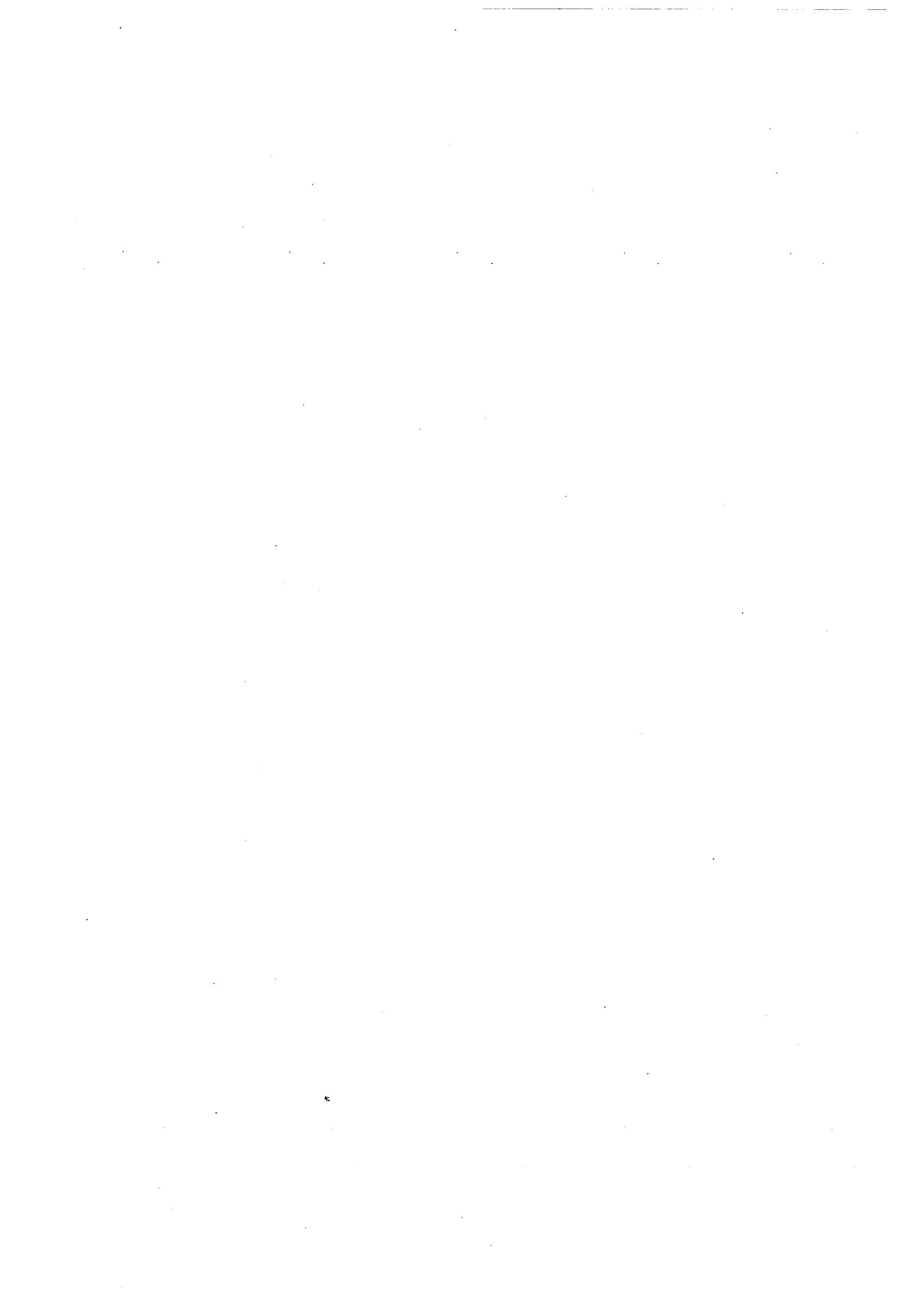
1. On 27.3.2020, the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13F) were promulgated, which set out the following criteria for the various categories of area:
 - (a) Category 1 areas: considered suitable for open storage and port-backup uses. 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: applications 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 (if required) 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 fresh applications relevant technical assessments/proposals (if required) 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) The use of sites less than 1,000m² for open storage uses and 2,000m² for port back-up uses in rural areas; is generally not encouraged, 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 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.

**Relevant Extracts of Town Planning Board Guidelines No.34C on
'Renewal of Planning Approval and Extension of Time for Compliance
with Planning Conditions for Temporary Use or Development'
(TPB PG- No.34C)**

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.



Previous S.16 Applications covering the Site

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Condition(s)</u>
1	A/YL-PH/99	Temporary Composting Use for a Period of 12 Months	11.7.1997	(1), (2), (4)
2	A/YL-PH/255	Temporary Composting Use for a Period of 12 Months	22.1.1999	(1), (2), (4)
3	A/YL-PH/330	Temporary composting use for a Period of 3 years	14.4.2000	(1), (2), (3), (4)
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), (4), (5), (6), (7), (8)
5	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), (4), (5), (6), (7), (8), (9)
6	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), (4), (5), (6), (7), (8), (9)
7.	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), (4), (5), (6), (7), (8)

Approval Conditions:

- (1) Submission and/or implementation of landscaping and/or tree preservation proposals/ the existing trees and landscape planting on the site should be maintained at all times
- (2) The submission of drainage proposals and provision of drainage facilities within a specified time limit/ maintenance of existing drainage facilities/ submission of a record of the existing drainage facilities
- (3) 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
- (4) Reinstatement of the application site to amenity area/ condition which is suitable for agricultural uses upon the expiry of the planning approval

- (5) Restriction on operation hours
- (6) No dismantling, maintenance, modification, repairing, cleansing, paint spraying or other workshop activities
- (7) No medium or heavy goods vehicles exceeding 5.5 tonnes, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed
- (8) Submission and implementation of fire service installations proposal/ provision of fire extinguisher(s) with a valid fire certificate (FS 251)
- (9) No disturbance to and no filling of the stream within the site is allowed at any time during the planning approval period

Rejected Application

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (TPB)</u>	<u>Rejection Reason(s)</u>
1	A/YL-PH/235#	Nine Temporary Open Storage of Construction Materials for a Period of 12 Months	30.10.1998	(1), (2), (3), (4), (5)

#The Site falls largely within "AGR" zone with a minor portion within the "V" zone.

Rejection Reasons

- (1) The proposed development is not in line with the planning intention of the "Agriculture" ("AGR") zone which is to retain and safeguard good agricultural land for agricultural purposes and to retain fallow arable land with good potential for rehabilitation, and is not in line with the planning intention of the "Village Type Development" ("V") zone which is to designate both existing recognized villages and areas of land considered suitable for village expansion. No strong justification has been given in the submission for a departure from such planning intentions even on a temporary basis
- (2) The proposed development does 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 is 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 is insufficient information in the submission to demonstrate that the development would not have adverse drainage impact on the surrounding areas; and
- (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 on the Pat Heung Outline Zoning Plan

Approved Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Conditions</u>
1	A/YL-PH/603	Renewal of Planning Approval for Temporary Open Storage of Private Cars and Lorries for 3 Years	29.1.2010	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
2	A/YL-PH/608	Proposed Temporary Open Storage of Second-Hand Vehicles for Display and Export for a Period of 2 Years	28.1.2011 (Revoked on 28.09.2012)	(1), (2), (3), (4), (5), (6), (7), (8), (9)
3	A/YL-PH/616	Proposed Temporary Open Storage of Backdrop Screens, Advertising Aluminium Frames and Construction Materials for 3 Years	28.1.2011	(1), (2), (3), (5), (6), (7), (8), (9)
4	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), (4), (5), (6), (7), (8), (9), (10), (11)
5	A/YL-PH/659	Temporary Open Storage of Construction Materials with Site Office for a Period of 3 Years	8.2.2013 (Revoked on 8.11.2013)	(1), (2), (3), (5), (6), (7), (8), (9)
6	A/YL-PH/666	Temporary Open Storage of Second-Hand Vehicles for Export, Vehicle Parts and Construction Materials for a Period of 3 Years	7.6.2013	(1), (2), (3), (5), (6), (7), (8), (9)
7	A/YL-PH/680	Temporary Open Storage of Private Cars and Lorries” for 3 Years	13.12.2013 (Revoked on 13.11.2015)	(1), (2), (3), (5), (6), (7), (8), (9), (10), (11), (12)
8	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 (Revoked on 4.10.2014)	(1), (2), (3), (5), (6), (7), (8), (9)
9	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	A/YL-PH/719	Temporary Open Storage of Construction Materials for a Period of 3 Years	7.8.2015	(1), (2), (3), (4), (5), (6), (7), (8), (9)
11	A/YL-PH/724	Temporary Open Storage of Private Cars and Lorries for 3 Years	22.1.2016	(1), (2), (4), (5), (6), (7), (8), (9), (10), (11), (12)
12	A/YL-PH/733	Temporary Open Storage of Second-Hand Vehicles for Export, Vehicle Parts and Construction Materials for a Period of 3 Years	10.6.2016	(1), (3), (4), (5), (6), (7), (11)

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Conditions</u>
13	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 (Revoked on 22.6.2019)	(1), (2), (3), (5), (6), (7), (8), (9), (11)
14	A/YL-PH/782	Renewal of Planning Approval for Temporary "Open Storage of Construction Materials" for a Period of 3 Years	1.6.2018	(1), (2), (3), (4), (5), (6), (7), (8), (9), (11)
15	A/YL-PH/803	Temporary Open Storage of Backdrop Screens, Advertising Aluminium Frames and Construction Materials for a Period of 3 Years	12.4.2019	(1), (2), (3), (5), (6), (7), (8), (9), (11)
16	A/YL-PH/805	Renewal of Planning Approval for Temporary "Open Storage of Second-Hand Vehicles for Export, Vehicle Parts and Construction Materials" for a Period of 3 Years	3.5.2019	(1), (2), (3), (5), (6), (7), (8), (9), (11)

- (1) Restriction on operation time.
- (2) No vehicle repairing, maintenance, dismantling and workshop activities.
- (3) No medium and heavy vehicles.
- (4) Provision of boundary fencing, or maintenance of existing boundary fencing.
- (5) Submission and/or implementation of drainage proposal or maintenance the existing drainage facilities on the site and/or submission of record of existing drainage facilities.
- (6) Submission and implementation of landscaping proposals within a specified time limit/maintenance of existing landscape plantings.
- (7) Submission and implementation of Fire Service Installation proposal/provision of fire extinguisher.
- (8) Reinstatement of the site to an amenity area
- (9) Revocation of the planning approval if any of the planning conditions is not complied with by the specified dated or during the planning approval period.
- (10) No disturbance and no filling of the stream
- (11) No reversing of vehicles into or out from the site
- (12) Submission and provision of a run-in/out proposal to/from Kam Tin Road

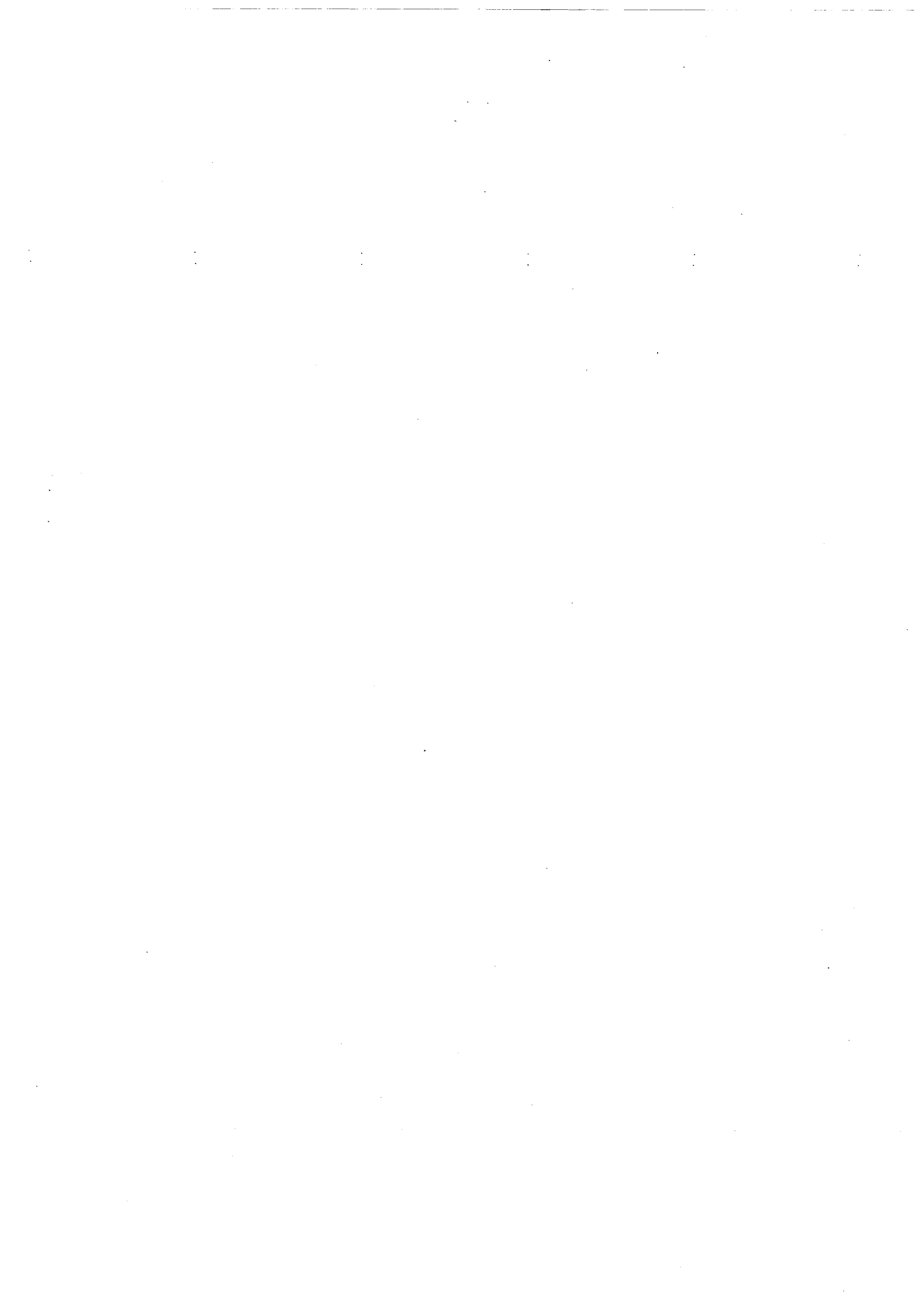
Rejected Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC)</u>	<u>Rejection Reasons</u>
1	A/YL-PH/645	Temporary Open Storage of Soil from Cut-and-Cover Method and Building Materials for 3 Years	24.8.2012	(1), (2), (3), (4)
2	A/YL-PH/678	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)

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC)</u>	<u>Rejection Reasons</u>
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*	Temporary Open Storage of Construction Materials and Containers with Parking of Heavy Vehicles for a period of 3 years	12.9.2014	(2), (3), (4), (5)
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	(6)

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

- (1) The proposed development was not in line with the planning intention of the "Agriculture" ("AGR") zone. No strong planning justification had been given in the submission for a departure from the planning intention, even on a temporary basis.
- (2) The application did not comply with the Town Planning Board Guidelines No. 13E in that the proposed development was not compatible with the surrounding land uses. There was also no previous approval granted at the site and there were adverse departmental comments and local objections against the application.
- (3) The applicant failed to demonstrate that the proposed development would not generate adverse environmental and drainage impacts on the surrounding areas.
- (4) The approval of the application, even on a temporary basis, would set an undesirable precedent for other similar uses to proliferate into this part of the "AGR" zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.
- (5) Not in line with the planning intentions of the "Village Type Development" and "Agriculture" zones. No strong planning justification had been given in the submission for a departure from the planning intention, even on a temporary basis.
- (6) 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.



Advisory Clauses

- (a) 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. It is noted that the existing structures within the Site are not tallied with the approved scheme of the previous planning approval. The applicant has to modify the subject proposal to cover the existing structures within the Site should he wish to keep them. The STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. The owner(s) of the lot(s) without STW will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. 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 rent or fee, as may be imposed by the LandsD;
- (b) note C for T's comments that the Site is connected to the public road network via a section of local access road which is not managed by 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;
- (c) note CHE/NTW, HyD's comments that his department shall not be responsible for the maintenance for any access connecting the Site and Kam Tai Road. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (d) 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 the DEP;
- (e) note CTP/UD&L, PlanD's comments that the applicant is advised to properly maintain the existing plantings within the Site at all times during the planning approval period;
- (f) note DAFC's comments that there is an existing stream along the boundary of the Site. The applicant should be reminded to adopt good site practice and implement necessary measures to avoid polluting or disturbing the adjacent stream during operation;
- (g) note CBS/NTW, BD's comments that if the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application. For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance

