

**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 Application Site

Approved Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
1	A/YL-KTN/233	Temporary storage of second-hand vehicles for sale for a period of 3 years	18.11.2005 for 1 year (on review) (revoked on 18.2.2006)	(1), (2), (3), (4), (5), (6), (7), (8), (9)
2	A/YL-KTN/249	Temporary second-hand vehicles for sale and parking of private cars for a period of 3 years	7.4.2006 for 1 year	(1), (2), (4), (5), (6), (8), (9), (10), (11)
3	A/YL-KTN/291	Temporary private car park for a period of 3 years	28.3.2008 (revoked on 28.9.2008)	(2), (5), (6), (8), (9), (10), (11), (12), (13), (14)
4	A/YL-KTN/325	Temporary private car park for a period of 3 years	5.6.2009	(2), (5), (6), (8), (9), (10), (11), (12), (13)
5	A/YL-KTN/385	Temporary private car park for a period of 3 years	5.10.2012	(2), (5), (6), (8), (9), (10), (11), (12), (13)
6	A/YL-KTN/479	Temporary private car park for a period of 3 years	18.9.2015 (revoked on 6.1.2016)	(2), (5), (6), (8), (9), (10), (11), (12), (13)
7	A/YL-KTN/533	Temporary private car park (private cars) for a period of 3 years	12.8.2016	(5), (6), (8), (9), (10), (12), (13), (14), (15), (16)

Approval Conditions

- (1) Restriction on operation hours
- (2) No vehicle maintenance, repairing, dismantling, paint spraying or other workshop activities or car washing shall be undertaken
- (3) Provision of access for KCRC to carry out site investigation for Northern Link project
- (4) Setting back of development from Government Land

- (5) Submission and implementation of landscaping proposals or maintenance of landscape planting
- (6) Submission and implementation/maintenance of drainage facilities
- (7) Fencing of the site
- (8) Reinstatement of the site to an amenity area upon expiry of the planning permission
- (9) If planning condition is not complied with by a specific date, the approval shall cease to have effect and be revoked without further notice
- (10) If planning condition is not complied with at any time during planning approval, the approval shall cease to have effect and be revoked without further notice.
- (11) No medium or heavy goods vehicles (i.e. exceeding 5.5 tonnes) or container trailers/tractors are allowed
- (12) No parking of vehicles without valid licences issued under the Traffic Regulations
- (13) Provision of mitigation measures to minimize any possible nuisance of noise and artificial lighting on the site to the residents nearby
- (14) Provision of fire extinguisher
- (15) Submission and implementation of fire service installations proposal
- (16) No reversing of vehicle into or out from the Site

Rejected Application

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (TPB)</u>	<u>Rejection Reasons</u>
1	A/YL-KTN/216	Temporary open storage of construction materials and construction machineries for a period of 3 years	6.5.2005 (on review)	(1), (2)

Rejection Reasons

- (1) The development was not in line with planning intention and there was no strong justification for a departure from the planning intention, even on a temporary basis.
- (2) The development did not comply with TPB PG-NO. 13C in that no previous approval had been granted to the site; residential dwellings located to the immediate east would be susceptible to adverse environmental nuisances; and there was insufficient information to demonstrate that the development would not generate adverse environmental impacts

Similar Applications within the same “CDA” zone on the Kam Tin North OZP

Approved Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
1	A/YL-KTN/292	Temporary private car park for a period of 3 years	28.3.2008 (revoked on 28.9.2008)	(1), (2), (3), (4), (5), (6), (7), (8)
2	A/YL-KTN/326	Temporary private car park for a period of 3 years	5.6.2009	(1), (2), (3), (4), (5), (6), (7), (8)
3	A/YL-KTN/393	Temporary private car park for a period of 3 years	2.12.2012	(1), (2), (3), (4), (5), (6), (7), (8), (10)
4	A/YL-KTN/492	Renewal of planning approval for temporary “private car park” for a period of 3 years	9.10.2015	(1), (2), (3), (4), (5), (6), (7), (8), (10)
5	A/YL-KTN/634	Proposed temporary private car park for a period of 3 years	16.11.2018	(1), (2), (3), (4), (5), (6), (7), (9), (10), (11), (12), (13)

Approval Conditions

- (1) No parking of vehicles without valid licences issued under the Traffic Regulations
- (2) No medium or heavy goods vehicles (i.e. exceeding 5.5 tonnes) or container trailer/tractor is allowed/ only private car is allowed
- (3) No vehicle maintenance, repairing, dismantling, paint spraying or other workshop activities or car washing shall be undertaken
- (4) Provision/maintenance of mitigation measures to minimize any possible nuisance of noise and artificial lighting on the site to the residents nearby
- (5) Submission and implementation of landscape proposal
- (6) Submission and implementation of drainage proposal/ maintenance of existing drainage facilities
- (7) If planning condition is not complied with during the approval period or by a specific 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) Restriction on operation hours
- (10) A notice should be posted at a prominent location of the Site to indicate that no medium or heavy goods vehicles exceeding 5.5 tonnes/ only private cars is/are allowed
- (11) No vehicle is allowed to queue back to or reverse onto/from public road at any time
- (12) Maintenance of boundary fence
- (13) Submission of condition records of the existing drainage facilities

Advisory clauses

- (a) resolve any land issues relating to the development with the concerned owner(s) of the Site;
- (b) note DLO/YL's comments that the Site comprises Old Scheduled 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 from San Tam Road through both GL and PL. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way. The STT/STW holders will need to apply to his office for modification of the STT/STW conditions where appropriate. Moreover, the lot owner(s) of the lot(s) without STW will need to apply to his office for permitting 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. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such applications will be approved. If such application 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. 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 adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to the nearby public roads/drains. His department shall not be responsible for the maintenance of any access connecting the Site and San Tam Road;
- (e) note CE/RD2-2, RDO, HyD's comments that the Site falls within the area of influence (AOI) of the proposed Northern Link (NOL). Although the programme and the alignment of the proposed NOL are still under review, those areas within the AOI may be subject to nuisance, such as noise and vibration of the proposed NOL;
- (f) 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 EPD;
- (g) note CTP/UD&L, PlanD's comments that any proposed tree works should be approved by the relevant tree authority prior to the commencement of works;
- (h) note CE/MN, DSD that the applicant should inform the Government if the drainage

arrangement is changed;

- (i) note D of FS's comments that the installation/ maintenance/ modification/ repair work of 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 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;
- (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, 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. If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of BD, they are UBW under the 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 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 application 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 B(P)R at the building plan submission stage; and
- (k) note CE/C, WSD's comments that the southern boundary of the Site encroaches upon the existing Waterworks Reserve (WWR) for 2 nos. trunk water mains of 1,400mm diameter (**Plan A-2** of the RNTPC Paper). No structure shall be erected over this WWR and such area shall not be used for storage or car-parking purposes. The Water Authority and his officers, 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.