

**Relevant Extract 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.



**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: 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 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 1,000m<sup>2</sup> for open storage uses and 2,000m<sup>2</sup> 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.

**Previous Applications covering the Application Site**

**Approved Applications**

	<b><u>Application No.</u></b>	<b><u>Proposed Use(s)</u></b>	<b><u>Date of Consideration (RNTPC/TPB)</u></b>	<b><u>Rejection reasons</u></b>
1	A/YL-KTN/338	Temporary Open Storage of Second-hand vehicles for Export for a Period of 3 Years	15.1.2010 (for 1 year) [revoked on 15.11.2010]	(1), (2), (3), (4), (5), (6), (7), (8), (9)
2	A/YL-KTN/355	Temporary Open Storage of Second-hand vehicles for Export for a Period of 3 Years	1.4.2011	(1), (2), (3), (4), (5), (6), (7), (8), (9)
3	A/YL-KTN/442	Proposed Temporary Open Storage of Building Materials with ancillary site office and staff restroom for a Period of 3 Years	23.5.2014	(1), (2), (3), (4), (5), (6), (7), (8), (9)
4	A/YL-KTN/553	Renewal of Planning Approval for Temporary Open Storage of Building Materials with ancillary site office and staff restroom for a Period of 3 Years	7.4.2017	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)

**Approval conditions**

- (1) Restriction on operation hours
- (2) No medium or heavy goods vehicles exceeding 5.5 tonnes or container trailers/tractors
- (3) No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities
- (4) Provision of fencing
- (5) Submission and implementation of landscaping proposal/ tree preservation proposal
- (6) Submission/Implementation of drainage proposal/submission of existing drainage record/maintain existing drainage facilities
- (7) Submission/implementation of fire service installations proposal
- (8) Revocation of the planning approval if the approval conditions are not complied with during the planning approval period or by the specified date
- (9) Reinstatement of the site
- (10) No vehicle is allowed to queue back to or reverse onto/from public road

**Rejected Applications**

	<b><u>Application No.</u></b>	<b><u>Proposed Use(s)</u></b>	<b><u>Date of Consideration (RNTPC/TPB)</u></b>	<b><u>Rejection reasons</u></b>
1	A/YL-KTN/161	Proposed Temporary Open Storage of Construction Materials and Machinery for a Period of 3 Years	23.5.2003 (on review)	(1), (3), (5)
2	A/YL-KTN/263	Proposed Temporary Open Storage of Building Materials and Vehicle Parts for a Period of 3 Years	25.5.2007	(1), (2), (3), (4), (5)

Rejection Reasons

- (1) The 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. No strong justification had been given in the submission for a departure from the planning intention.
- (2) The development was not compatible with the surrounding land uses which were predominantly rural in character with cultivated and fallow agricultural land, residential dwellings and river channel. There was insufficient information to demonstrate that the proposed development would not generate adverse environmental, drainage and landscape impacts on the surrounding areas.
- (3) The application did not comply with the Town Planning Board Guidelines for Open Storage and Port Back-up Uses in that there was no previous approval granted at the site and/or residential dwellings were located in close proximity to the site and would be susceptible to adverse environmental nuisances generated by the development; and/or there were adverse comments from concerned departments.
- (4) There was no information given in the submission to demonstrate that other suitable sites within the "Industrial (Group D)" and "Open Storage" zone could not be identified for the use under application.
- (5) The approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the "AGR" zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

**Similar Applications in the vicinity of the Site within the same "AGR" zone on  
Kam Tin North OZP**

**Approved Applications**

	<b><u>Application No.</u></b>	<b><u>Proposed Use(s)</u></b>	<b><u>Date of Consideration (RNTPC/TPB)</u></b>	<b><u>Approval Condition (s)</u></b>
1	A/YL-KTN/339	Temporary Open Storage of Excavators for a Period of 3 Years	15.1.2010 (for 1 year) [revoked on 15.11.2010]	(1), (2), (3), (4), (5), (6), (7), (8), (9)
2	A/YL-KTN/341	Temporary Open Storage of Vehicles and Vehicle Parts for Export for a Period of 3 Years	29.1.2010 (for 1 year) [revoked on 29.11.2010]	(1), (2), (3), (4), (5), (6), (7), (8), (9)
3	A/YL-KTN/343	Proposed Temporary Open Storage of Construction Materials with Ancillary Office for a Period of 3 Years	27.8.2010 (for 3 years) [revoked on 27.8.2011]	(1), (2), (3), (4), (5), (6), (7), (8), (9)
4	A/YL-KTN/363	Temporary Open Storage of Construction Materials with Ancillary Office and Storage for a Period of 3 Years	20.5.2011 (for 3 years)	(1), (2), (3), (4), (6), (7), (8), (9)
5	A/YL-KTN/364	Temporary Open Storage of Vehicles and Vehicle Parts for Export for a Period of 3 Years	21.10.2011 (for 3 years)	(1), (2), (3), (4), (5), (6), (7), (8), (9)
6	A/YL-KTN/373	Temporary Open Private Car Park for Medium Goods Vehicles and Storage of Construction Materials for a Period of 3 Years	10.2.2012 (for 1 year) [revoked on 10.11.2012]	(1), (2), (3), (4), (5), (6), (7), (8), (9)
7	A/YL-KTN/399	Temporary Private Car Park for Medium Goods Vehicles and Storage of Construction Materials for a Period of 3 Years	24.5.2013 (for 3 years)	(1), (2), (3), (4), (5), (6), (7), (8), (9)
8	A/YL-KTN/441	Renewal of Planning Approval for Temporary "Open Storage of Construction Materials with Ancillary Office and Storage" for a Period of 3 Years	9.5.2014 (for 3 years)	(1), (2), (3), (5), (6), (7), (8), (9), (10)
9	A/YL-KTN/452	Temporary Open Storage of Vehicles and Vehicle Parts for Export for a Period of 3 Years	17.10.2014 (for 3 years)	(1), (2), (3), (4), (5), (6), (7), (8), (9)
10	A/YL-KTN/517	Temporary Private Car Park for Medium Goods Vehicle and Storage of Construction Materials for a Period of 3 Years	1.6.2016 (for 3 years)	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition (s)</u>
11	A/YL-KTN/559	Renewal of Planning Approval for Temporary "Open Storage of Construction Materials with Ancillary Office and Storage" for a Period of 3 Years	12.5.2017 (for 3 years)	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
12	A/YL-KTN/578	Temporary Open Storage of Vehicles and Vehicle Parts for Export for a Period of 3 Years	22.12.2017 (for 3 years)	(1), (2), (3), (6), (7), (8), (9), (10)
13	A/YL-KTN/648	Renewal of Planning Approval for Temporary "Private Car Park for Medium Goods Vehicles and Storage of Construction Materials" for a Period of 3 Years	3.5.2019 (for 3 years)	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
14	A/YL-KTN/654	Proposed Temporary Open Storage of Construction Materials for a Period of 3 Years	17.5.2019 (for 3 years) [revoked on 28.6.2019]	(1), (2), (3), (6), (7), (8), (9), (10)

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/ Maintenance of boundary fencing
- (5) Submission and/or implementation of landscaping proposal/ Maintenance of existing trees and landscape planting
- (6) Submission and/or implementation of drainage proposal/ Maintenance of existing drainage facilities/ Submission of record of existing drainage facilities
- (7) Submission and implementation of fire service installations proposal/ Provision of fire extinguisher(s)
- (8) 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
- (9) Reinstatement of the site to an amenity area/ condition which is suitable for agricultural uses/ original state prior to the temporary open storage use
- (10) No vehicle is allowed to reverse into or out of the site/ no queuing back of vehicles to public road from the site / no vehicle without valid licence issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations is allowed to be parked/ store on the Site during the planning approval period

Rejected Applications

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Main Rejection Reasons</u>
--	------------------------	----------------------	--	-------------------------------

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Main Rejection Reasons</u>
1	A/YL-KTN/375	Temporary Open Storage of Spare Materials for Maintenance and Beautification of Private Housing and Land for a Period of 3 Years	24.2.2012  [22.6.2012 on review]	(1), (2), (3), (4)
2	A/YL-KTN/386	Proposed Temporary Open Storage of Vehicles with Ancillary Office for a Period of 3 Years	6.7.2012	(1), (2), (3), (4)
3	A/YL-KTN/392	Temporary Open Storage of Precast Concrete Unit for a Period of 3 Years	19.10.2012  [22.2.2013 on review]	(1), (2), (3), (4)
4	A/YL-KTN/405	Temporary Open Storage of Construction Machinery for a Period of 3 Years	24.5.2013  [13.9.2013 on review]	(1), (2), (3), (4)
5	A/YL-KTN/552	Temporary Open Storage of Waste Metals, Construction Materials and Vehicle Maintenance Workshop for a Period of 3 Years	7.4.2017	(1), (2), (3), (4)

Rejection Reasons

- (1) The development was not in line with the planning intention of the “AGR” 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 no previous approval had been granted at the site.
- (3) There was insufficient information in the submission to demonstrate that the development would not have adverse traffic/drainage/environmental/visual/landscape 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.



**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 prior approval of the Government. 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 regularise 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 LandsD;
- (b) note C for T's comments that the Site is connected to public road network via a section of a local access road which is not managed by his department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibility of the local access road should be clarified with the relevant lands and maintenance authorities accordingly;
- (c) note CHE/NTW, HyD's comments that adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains. His department shall not be responsible for the maintenance of any access connecting the Site and the part of Kam Tai Road maintained by his department;
- (d) adopt 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 DEP to minimize any potential environmental nuisances;
- (e) note DAFC's comments that the Site is in the vicinity of a drainage channel KT6. The applicant should adopt necessary measures to avoid polluting or disturbing the adjacent watercourse during operation; and
- (f) note CBS/NTW, BD's comments that if the existing structures are erected on leased land without approval of BD (not being New Territories Exempted Houses), they are unauthorised under the Buildings Ordinance (BO) and should not be designated for any use under the application. Before any new building works (including ancillary office and storage as temporary buildings) are to be carried out on the Site, prior approval and consent of the Building Authority (BA) 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 the BA 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 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.