

**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.



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

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/608	Proposed Temporary Open Storage of Second-Hand Vehicles for Display and Export for a Period of 2 Years	28.1.2011 (Revoked on 28.9.2012)	(1), (2), (3), (4), (5), (6), (7), (8), (9)
2	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), (4), (5), (6), (7), (8), (9)
3	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), (2), (3), (5), (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 of boundary fencing, or maintenance of existing boundary fencing
- (5) Submission and/or implementation of landscaping and/or tree preservation proposal, or maintenance of existing trees and/or landscape plantings within the site
- (6) Submission and/or implementation of drainage proposal or maintenance the existing drainage facilities on the site and submission of record of drainage facilities
- (7) Submission and implementation of fire service installations proposal and/or provision of fire extinguisher
- (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/to the original state/suitable for agricultural uses with a view to preserving agricultural land
- (10) No reversing/queuing of vehicles into or out from the site

**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/235	Nine Temporary Open Storage Yards of Construction Materials for a Period of 12 Months	30.10.1998	(1), (2), (3), (4), (5)
2	A/YL-PH/409	Proposed Temporary Storage of Building Materials for a Period of 3 Years	20.12.2002 on review	(1), (5), (6)

**Rejection Reasons**

- (1) The development was not in line with the planning intention of the "AGR" and/or "V" zone(s). No strong justification had been given in the submission for a departure from the planning intention(s) 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 no previous approval had been granted at the site.
- (3) The proposed vehicular access 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 and environmental impacts on the surrounding areas.
- (5) 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.
- (6) The part of the proposed development falling within the "AGR" zone was not compatible with the surrounding land uses.

**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), (10)
2	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), (4), (5), (6), (7), (8), (9)
3	A/YL-PH/635	Temporary Building Materials and Automotive Parts Storage Yard and Ancillary Staff Canteen for 3 Years	20.1.2012 (Revoked on 20.4.2013)	(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/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), (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), (4), (5), (6), (7), (8), (9), (10), (11), (12)
8	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), (9), (10)
9	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)
10	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)
11	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)

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Conditions</u>
12	A/YL-PH/724	Temporary Open Storage of Private Cars and Lorries” for 3 Years	22.1.2016 (Revoked on 22.12.2017)	(1), (2), (4), (5), (6), (7), (8), (9), (10), (11), (12)
13	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), (7), (8), (9), (11)
14	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), (6), (7), (8), (9), (11)
15	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)
16	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)

Approval conditions

- (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 Installations proposal/provision of fire extinguisher
- (8) Reinstatement of the site to an amenity area or to the original state
- (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/queueing 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/TPB)</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)
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	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

### Rejection reasons

- (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 has been given in the submission for a departure from the planning intentions, 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.



**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) to 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 Government Land (GL) and 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 Kam Tin Road via 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/STT holder(s) will need to apply to his office for modification of the STW/STT 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. 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 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. 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 his department does not and will not maintain the accesses connecting the Site and Kam Tin Road. 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 Temporary Uses and Open Storage Sites" issued by DEP, including (i) drainage channels and an oil interceptor should be installed to reduce pollutants from the site run-off; and (ii) materials stored in the open area which may leak out oil or chemical waste should be placed on the non-slip heavy duty membrane and properly covered with water proofing sheet to avoid any soil contaminations;

- (f) note D of FS's comments that the applicant should be advised that the installation/ maintenance/ modification/ repair work of FSIs 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. In addition, the good practice guidelines for open storage in **Appendix VI** of the RNTPC paper should be adhered to. To address the approval condition on the provision of fire extinguisher(s), the applicant should submit a valid fire certificate (FS251) 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;
- (g) note CBS/NTW, BD's comments that before any new buildings works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of 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 are erected on leased land without approval of BD (not being a New Territories Exempted House), 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 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 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. Noting the Site is located at two different lots separated by a track, it is defined as two sites under the BO. In this case, each site should be self-sustainable and there should not be any transferal of plot ratio and site coverage among the sites; and
- (h) note CE/C, WSD's comments that the Site encroaches upon the existing 10m wide Waterworks Reserve (WWR) for the WSD's water mains (Plan A-2 of the RNTPC paper). No structure shall be erected over this WWR and such area shall not be used for storage purposes. The Water Authority (WA) and his officers and contractors, his or their workmen shall have free access at all times to the said area with necessary plants and vehicles for the purpose of laying, repairing and maintenance of water mains and all other services across, through or under it which the WA 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.