

**Relevant Extracts 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 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 Extract of the 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: 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 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.

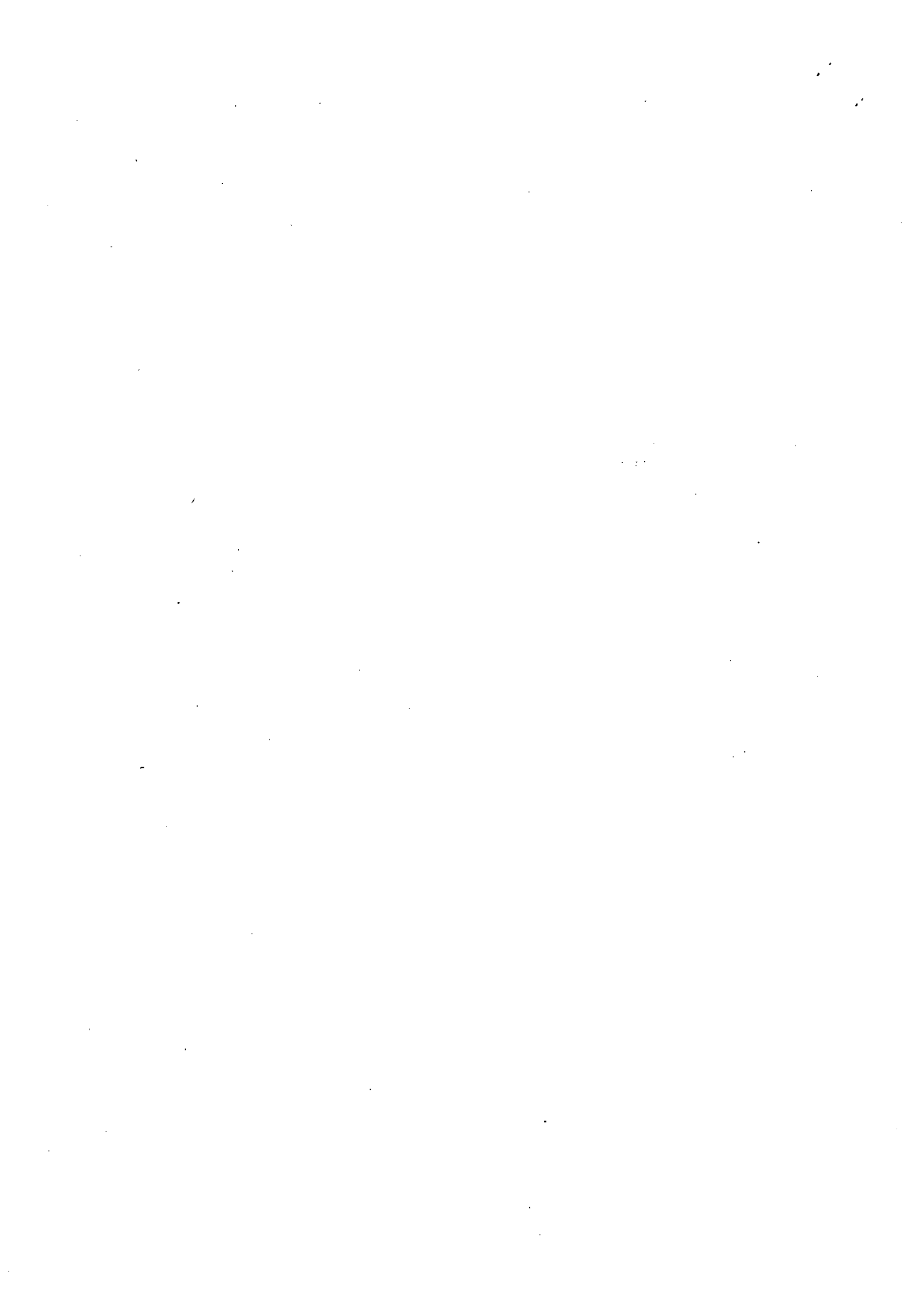
2. In assessing applications for open storage and port back-up uses, the other major relevant assessment criteria are also summarized as follows:
- (a) there will be a general presumption against development on sites of less than 1,000 m² for open storage uses and 2,000 m² for port back-up uses in rural 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.

Rejected Application

	Application No.	Proposed Use(s)/ Development(s)	Date of Consideration by RNTPC/TPB	Reasons for Rejection
1.	A/YL-PH/9	Proposed redevelopment of temporary structures and temporary storage of porcelain products for a period of 12 months	8.9.1995 on review	(1), (2), (3)

Reasons for Rejection

- (1) Not in line with the planning intention of the "AGR" zone.
- (2) Not compatible with the nearby residential developments.
- (3) The approval of the application would set an undesirable precedent for similar applications which will lead to general degradation of the area.



**Appendix IV of RNTPC
Paper No. A/YL-PH/764**

Previous s.16 Applications covering the Application Site

Approved Applications

	Application No.	Proposed Use(s)/ Development(s)	Date of Consideration by RNTPC/TPB	Approval Condition(s)
1.	A/YL-PH/176	Temporary open storage of porcelain products/sanitary utensils for a period of 12 months	6.3.1998	(1), (2), (3)
2.	A/YL-PH/267	Temporary open storage of porcelain products/sanitary utensils for a period of 12 months	26.3.1999	(2), (3)
3.	A/YL-PH/310	Temporary open storage of porcelain products/sanitary utensils for a period of 3 years	14.1.2000	(2), (3), (4)
4.	A/YL-PH/423	Temporary open storage of porcelain products/sanitary utensils for a period of 3 years	7.2.2003	(2), (3), (4)
5.	A/YL-PH/512	Temporary open storage of porcelain products/sanitary utensils for a period of 3 years	3.2.2006	(1), (3), (4), (5), (6), (7), (8)
6.	A/YL-PH/576	Renewal of planning approval for temporary "open storage of porcelain products/sanitary utensils" use under Application No. A/YL-PH/512 for a period of 3 years	23.1.2009	(3), (4), (6), (7), (8), (9), (10)

7.	A/YL-PH/632	Renewal of planning approval for temporary "open storage of porcelain products/sanitary utensils" use under Application No. A/YL-PH/576 for a period of 3 years	20.1.2012	(3), (4), (7), (8), (9), (10), (11), (12)
8.	A/YL-PH/709	Renewal of Planning Approval for Temporary "Open Storage of Porcelain Products/Sanitary Utensils" for a Period of 3 Years	16.1.2015	(3), (4), (6), (7), (8), (9), (10), (11), (12)

Approval Conditions:

- (1) Submission and implementation of landscape proposals within the specified time limit.
- (2) Provision of flood mitigation measures and drainage facilities within the specified time limit.
- (3) Upon expiry of the planning permission, the reinstatement of the application site to an amenity area.
- (4) If any of the planning conditions was not complied with during the planning approval period/by the specified date, the approval hereby given should cease to have effect and shall on the same date be revoked without further notice.
- (5) The total covered storage area should not exceed 5508.2m².
- (6) Restriction on operation hour.
- (7) No workshop activities, vehicle repairing and maintenance activities should be carried out at the application site.
- (8) The drainage facilities implemented on site under the previous application should be maintained at all times during the approval period.
- (9) The existing trees and/or landscape planting on the site should be maintained at any time during the planning approval period.
- (10) Submission and implementation of fire services installations proposals within the specified time limit.
- (11) Submission of a record of the existing drainage facilities on the site within the specified time limit.
- (12) Provision of fire extinguisher(s) within the specified time limit.

Rejected Application

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1.	A/YL-PH/9	Proposed redevelopment of temporary structures and temporary storage of porcelain products for a period of 12 months	8.9.1995 on review	(1), (2), (3)

Reasons for Rejection

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- (3) The approval of the application would set an undesirable precedent for similar applications which will lead to general degradation of the area.

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 issue relating to the development with other concerned owner(s) of the Site;
- (b) the Site should be kept in a clean and tidy condition at all time;
- (c) note DLO/YL, LandsD'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. Lot Nos. 20, 21, 22, 23, 24, 25 and 42 all in D.D. 108 are covered by Short Term Waiver (STW) No. 2559 to permit structures erected thereon for the purpose of "ancillary use to storage of porcelain products/sanitary utensils". The concerned Government Land (GL) within the Site is covered by Short Term Tenancy (STT) No. 1724 to permit structures erected thereon for the purpose of "storage of porcelain products/sanitary utensils with ancillary structures". The Site is accessible to Fan Kam Road via GL. His office provides no maintenance work for the GL involved and does not guarantee any right of way. The STW and STT holder(s) will need to apply to his office for modification of the STW/STT conditions if there is any irregularities on site. Such application(s) 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 premium or fee, as may be imposed by the LandsD;
- (d) 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;
- (e) note CHE/NTW, HyD's comments that HyD is not/shall not be responsible for the maintenance of the access road leading to the Site from Fan Kam Road;
- (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 DEP;
- (g) note DAFC's comments that there are two semi-natural stream sections immediately adjacent to the western and northeastern site boundary. The applicant is advised to adopt appropriate measures to avoid disturbing the stream and its embankments, and prevent polluting the stream during site operation;
- (h) note D of FS' comments that in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans. Good practice guidelines for open storage should be adhered to (**Appendix V**

of this RNTPC paper). To address the approval condition on the provision of fire extinguisher(s), the applicant should be advised to submit a valid fire certificate (FS251) to his office. 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;

- (i) note CE/C, WSD's comments that existing water mains will be affected (**Plan A-2** of this RNTPC paper). A Waterworks Reserve within 1.5m from the centreline of the water mains shall be provided to WSD. No structure shall be erected over this Waterworks Reserve and such area shall not be used for storage or car-parking purpose. 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 construction, inspection, operation, maintenance and repair works. All other services across, through or under the Waterworks Reserve are required to seek authorization from the Water Authority. No trees or shrubs with penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water main shown on **Plan A-2** of this RNTPC paper. The developer shall bear the cost of any necessary diversion works affected by the development. 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. For provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards; and

- (j) note CBS/NTW, BD's comments that if the existing structures are erected on leased land without approval of the BD (not being New Territories Exempted Houses), they are unauthorized under the BO and should not be designated for any 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 the 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 the 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 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.