

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 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 relevant assessment criteria for assessing applications 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 application 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

Approved Applications

Application No.	Uses/ Development	Date of Consideration	Approval Conditions
A/NE-TKL/158	Proposed Temporary Open Storage of Construction Equipment for a Period of 3 Years	24.8.2001 (on review)	A7, A9, A10, A11, A12, A16, A18 & A20
A/NE-TKL/390	Temporary Open Storage and Storage of Goods (Aerial Working Platform and Elevating Platform) for a Period of 3 Years	21.9.2012 (revoked on 21.3.2013)	A1, A3, A4, A9, A10, A11, A12, A13, A14, A15 & A20
A/NE-TKL/454	Proposed Temporary Open Storage of Construction Materials and Equipment with Ancillary Storage of Construction Equipment and Tools and Site Office for a Period of 3 Years	22.11.2013	A2, A3, A5, A7, A9, A10, A11, A12, A13, A14, A15 & A20
A/NE-TKL/555	Temporary Open Storage of Construction Materials, Equipment and Machineries with Ancillary Storage of Construction Equipment, Machineries, Tools and Site Office for a Period of 3 Years	25.8.2017	A2, A3, A5, A6, A8, A9, A10, A11, A12, A13, A14, A15, A17, A19, A20 & A21

Approval Conditions:

- A1 No night-time operation between 6:00 p.m. and 8:00 a.m. was allowed
- A2 No night-time operation between 11:00 p.m. and 7:00 a.m. was allowed
- A3 No operation on Sundays and public holidays was allowed
- A4 No dismantling and workshop activities should be carried out
- A5 No workshop activities shall be carried out on the site

- A6 All vehicles entering and exiting the site shall be restricted to non-peak hours (i.e. from 10:00 a.m. to 4:00 p.m. on Mondays to Saturdays (excluding Sundays and Public Holidays))
- A7 The provision of peripheral fencing or the peripheral fencing shall be maintained
- A8 The provision of boundary fencing on the site
- A9 The submission of drainage proposals
- A10 The provision of drainage facilities or the implementation of drainage proposals or the implementation of drainage facilities
- A11 The submission of landscaping and/or tree preservation proposals
- A12 The implementation of landscaping and/or tree preservation proposals
- A13 The provision of fire extinguisher(s)
- A14 The submission of proposal for water supplies for fire-fighting and fire service installations
- A15 The provision of water supplies for fire-fighting and fire service installations
- A16 The submission of vehicular run-in/out and parking proposals
- A17 The submission of a run-in/out proposal
- A18 The provision of vehicular run-in/out and parking facilities
- A19 The implementation of the run-in/out proposal
- A20 Revocation clause
- A21 Reinstatement clause

Rejected Applications

Application No.	Uses/ Development	Date of Consideration	Rejection Reasons
A/NE-TKL/26	Open Storage of Vehicles and Open Working Area for Disassembling and Crating of New Vehicles for a Temporary Period of 12 Months	1.11.1996	R1, R2, R3 & R4
A/NE-TKL/63	Open Storage of Construction Materials for a Temporary Period of 12 Months	1.5.1998 (on review)	R5, R6 & R7

Rejection Reasons:

- R1 The development was not in line with the planning intention of the "Agriculture" zone which was to retain and safeguard agricultural land, farms and fish ponds within the Ta Kwu Ling area, which had been one of the established agricultural bases in the North East New Territories. There were no strong justifications to merit a departure from such planning intention even on a temporary basis.
- R2 The development was incompatible with the surrounding land uses which were predominantly agricultural and rural in character.
- R3 No detailed flood mitigation measures were included in the submission to address the flooding problems in the vicinity of the application site.
- R4 The approval of the application would set an undesirable precedent for similar applications in the area, which would result in the encroachment of prime agricultural land.
- R5 The development was not in line with the planning intention of the "Agriculture" ("AGR") zoning for the area which was to retain and safeguard good agricultural land for agricultural purposes and to retain fallow arable land with good potential for rehabilitation. The submission did not give strong justification for a departure from the planning intention even on a temporary basis.
- R6 There was insufficient information in the submission to demonstrate that the development would not have adverse drainage impacts on the surrounding areas.
- R7 The approval of the application would set an undesirable precedent for similar applications in the area, the cumulative effect of which would result in a general degradation of the environment of the area.

**Similar S.16 Applications for Temporary Open Storage
within/partly within the “Agriculture” zone
in the vicinity of the Application Site in the
Ping Che & Ta Kwu Ling Area**

Approved Applications

Application No.	Uses/ Development	Date of Consideration	Approval Conditions
A/NE-TKL/342 ¹	Temporary Open Storage of Construction Equipment for a Period of 3 Years	10.9.2010	A1, A4, A5, A6, A7, A8, A10, A13, A14, A16, A20 & A21
A/NE-TKL/443 ¹	Temporary Open Storage of Construction Equipment for a Period of 3 Years	27.9.2013	A1, A4, A5, A6, A9, A10, A13, A14, A15, A17, A20 & A21
A/NE-TKL/460 ²	Temporary Open Storage of Construction Materials for a Period of 3 Years	13.12.2013 (revoked on 13.6.2015)	A2, A4, A5, A6, A11, A13, A14, A15, A17 & A20
A/NE-TKL/553 ¹	Temporary Open Storage of Construction Equipment and Materials for a Period of 3 Years	14.10.2016	A1, A4, A5, A6, A9, A11, A12, A13, A14, A15, A17, A20 & A21
A/NE-TKL/564 ²	Proposed Temporary Open Storage of Waste Paper, Waste Plastics and Waste Metal Cans for Recycling and Workshop for Recycling for a Period of 3 Years	4.5.2018	A3, A4, A6, A11, A13, A14, A11, A17, A18, A19, A20 & A21

A/NE-TKL/622 ¹	Renewal of Planning Approval for Temporary Open Storage of Construction Equipment and Materials for a Period of 3 Years	6.9.2019	A1, A4, A5, A6, A7, A9, A11, A12, A13, A14, A15, A20 & A21
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Remarks

- ¹: The application nos. A/NE-TKL/342, A/NE-TKL/443, A/NE-TKL/553 & A/NE-TKL/622 involve the same site.
- ²: The application nos. A/NE-TKL/460 and A/NE-TKL/564 involve the same site.

Approval Conditions:

- A22 No night-time operation between 11:00 p.m. and 7:00 a.m. was allowed
- A23 No night-time operation between 6:00 p.m. and 9:00 a.m. was allowed
- A24 No operation between 6:30 p.m. and 8:00 a.m. was allowed
- A25 No operation on Sundays and public holidays was allowed
- A26 The stacking height of the materials stored within five metres of the periphery of the site should not exceed the height of the boundary fence
- A27 The peripheral fencing and paving of the site should be maintained
- A28 The existing trees on the application site should be maintained
- A29 The setting back of the application site boundary to avoid encroachment on the project areas of the proposed Drainage Channel TKL05 under "Drainage Improvement in Northern New Territories (NT) - Package C (Remaining Works)" as and when required by the Drainage Services Department
- A30 The setting back of the site boundary to avoid encroachment on the resumption boundary of Project PWP Item No. 119CD - Drainage Improvement in Northern New Territories - Package C (Remaining Works) as and when required by the Drainage Services Department
- A31 The submission and the implementation of drainage proposals
- A32 The submission of condition records of the existing drainage facilities
- A33 The existing drainage facilities implemented under previous application on-site should be maintained properly
- A34 The submission of proposals for water supplies for fire-fighting and fire service installations
- A35 The provision of water supplies for fire-fighting and fire service installations

- A36 The provision of fire extinguisher(s)
- A37 The submission and the implementation of landscape proposals
- A38 The submission and the implementation of tree preservation and landscape proposals
- A39 All vehicles entering and exiting the site shall be restricted to non-peak hours (i.e. from 10:00 a.m. to 4:00 p.m.)
- A40 No container tractor/trailer was allowed to be parked/stored on or enter/exit the site
- A41 Revocation clause
- A42 Reinstatement clause

Rejected Applications

Application No.	Uses/ Development	Date of Consideration	Rejection Reasons
A/NE-TKL/338	Temporary Open Storage of Recycled Electronic Appliances and Metal and Ancillary Workshop For a Period of 3 Years	3.12.2010 (on review)	R1 & R2
A/NE-TKL/346	Proposed Temporary Open Storage of Semi-products for a Period of 3 Years	28.1.2011	R1, R3 & R9
A/NE-TKL/354	Temporary Open Storage of Construction Equipment and Materials with Ancillary Office for a Period of 1 Year	4.3.2011	R1, R4 & R10
A/NE-TKL/480*	Proposed Temporary Open Storage of Construction Materials and Equipment and Tools for a Period of 3 Years	26.9.2014	R1, R5 & R11
A/NE-TKL/514*	Proposed Temporary Open Storage (Construction Materials and Equipments and Tools) for a Period of 3 Years	18.3.2016	R1, R6 & R11
A/NE-TKL/560	Proposed Temporary Open Storage of Construction Materials, and Metal Machineries and Materials, and Ancillary Office for a Period of 3 Years	26.5.2017	R1, R7 & R11
A/NE-TKL/625	Proposed Temporary Open Storage of Construction Machinery and Container for a Period of 3 Years	4.10.2019	R1, R8 & R12

Remarks

*: The site of application no. A/NE-TKL/480 and A/NE-TKL/514 involves the same site.

Rejection Reasons

R1 The use under application was not in line with the planning intention of the "Agriculture" zone in the Ping Che and Ta Kwu Ling area which was primarily to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There

was no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

- R2 The use under application did not comply with Town Planning Board Guidelines No. 13E for 'Application for Open Storage and Port Back-up Uses' in that no previous planning approval had been granted to the application site and the applicant had failed to demonstrate that the proposed development would have no adverse environmental impacts on the surrounding area.
- R3 The proposed use did not comply with 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) in that no previous planning approval had been granted for the application site and there were adverse departmental comments and local objections against the application; and the applicant had failed to demonstrate that the proposed development would not generate adverse environmental impacts on the surrounding areas.
- R4 The development under application did not comply with the Town Planning Board Guidelines for 'Application for Open Storage and Port Back-up Uses' (TPB PG-No. 13E) in that the applicant had failed to demonstrate genuine efforts in compliance with the approval conditions under the previous application (No. A/NE-TKL/307) resulting in revocation of the planning permission, and had failed to include in the current application relevant technical assessments/proposals to demonstrate that the proposed use would not generate adverse impacts on the surrounding areas; and there were adverse departmental comments and local objections against the application.
- R5 The application did not comply with the Town Planning Board Guidelines No. 13E in that there were adverse departmental comments and local objections to the application; and the applicant failed to demonstrate that the development would have no adverse traffic and landscape impacts on the surrounding area.
- R6 The application did not comply with the Town Planning Board Guidelines No. 13E in that there were adverse departmental comments and local objections to the application, and the applicant failed to demonstrate that the development under application would not have adverse landscape impact on the surrounding area.
- R7 The application did not comply with the Town Planning Board PG-No. 13E in that there was no previous approval of open storage use granted for the Site and no exceptional circumstances to justify sympathetic consideration of the application; there were adverse departmental comments on the applications; and the applicant failed to demonstrate that the proposed development would not cause adverse traffic, environmental and landscape impacts on the surrounding areas.
- R8 The application did not comply with the Town Planning Board (TPB) Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No.13E) in that there was no previous planning approval for open storage use granted at the site; there were adverse comments from the relevant Government departments and local objections against the application.
- R9 There was no information in the submission regarding the nature and details of semi-products to be stored within the application site. It was not possible to assess whether the proposed open storage use would not cause adverse impacts on the surrounding areas.

- R10 The approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the "Agriculture" zone. The cumulative effect of approving such application would result in adverse environmental, traffic and landscape impacts of the area.
- R11 Approval of the application would set an undesirable precedent for similar applications within the "AGR" zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.
- R12 The applicant failed to demonstrate that the development would have no adverse traffic impact on the surrounding areas.

Recommended Advisory Clauses

- (a) to note the comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD) on the following:
- (i) the lots under application are Old Schedule Lots held under Block Government Lease (demised for agricultural use) without any guaranteed right of vehicular access. The applicant should make his own arrangement for acquiring access, and there is no guarantee that any adjoining Government Land (GL) will be allowed for the vehicular access of the proposed use;
 - (ii) the existing structures on the Site were erected without approval from her office. The aforesaid structures are not acceptable under the Leases concerned. Her office reserves the right to take necessary lease enforcement action against the unauthorised structures;
 - (iii) one of the existing structures on the Site was erected for latrine uses. The applicant should note that the existing toilet facilities should meet current health requirements;
 - (iv) the ingress and egress of the Site would run through Lot 1105 S.A RP in D.D. 82, which is one of the subject lots, and of which the applicant is the sole registered owner;
 - (v) the GL adjacent to the Site is occupied without approval from her office. The applicant is required to cease the illegal occupation of the GL; and
 - (vi) if the planning approval is granted, the owners of the lots concerned have to apply to her office for a Short Term Waiver (STW) and a Short Term Tenancy (STT). The applications for STW/STT will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW/STT are approved, their commencement date will be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by her office;
- (b) to note the comments of the Chief Engineer/New Territories East, Highways Department that upon termination of the proposed storage use, the applicant is required to reinstate the run-in/out to its original state and to his satisfaction at the applicant's own cost;
- (c) to note the comments of the Director of Agriculture, Fisheries and Conservation that necessary measures should be implemented to prevent polluting and disturbing the nearby watercourse as far as possible;
- (d) to note the comments of the Chief Engineer/Drainage Projects, Drainage Services Department that the Site is in an area where no public sewerage connection is available;

- (e) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) on the following:
- (i) if the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the captioned application;
 - (ii) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
 - (iii) 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;
 - (iv) the temporary converted containers for site office / storage are considered as temporary buildings are subject to control under the Building (Planning) Regulations (B(P)Rs) Pt. VII;
 - (v) 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 B(P)Rs respectively;
 - (vi) if the Site does not abut 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)Rs at the building plan submission stage; and
 - (vii) detailed comments under the BO will be provided at the building plan submission stage;
- (f) to note the comments of the Director of Fire Services on the following:
- (i) to address the condition on provision of fire extinguisher(s), the applicant should submit certificate(s) under Regulation 9(1) of the Fire Service (Installations and Equipment) Regulations (Chapter 95B) to his department for compliance of condition;
 - (ii) if covered structures (e.g. container-converted office, temporary warehouse and temporary shed used as workshop) are erected within the Site, fire service installations (FSIs) will need to be installed;
 - (iii) if no building plan will be circulated to his department via the Centralised Processing System of BD, the applicant is required to send the relevant layout plans to his department incorporated with the proposed FSIs for approval. In preparing the submission, the applicant is advised on the following points:
 - (a) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and

- (b) the locations of the proposed FSIs to be installed and the access for emergency vehicles should be clearly indicated on the layout plans; and
- (iv) detailed fire safety requirements will be formulated upon receipt of formal submission of the aforesaid plans;
- (g) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that the applicant should be reminded that approval of the planning application under Town Planning Ordinance does not imply approval of tree preservation clauses/ conditions under the Lease. The applicant should seek comments and approval from the relevant authorities for any proposed tree removal; and
- (h) to follow the environmental mitigation measures as set out in the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection in order to minimise any possible environmental nuisances.