

**Relevant Extract of 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 1,000m<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**

**Approved Applications**

<b><u>Application No.</u></b>	<b><u>Uses/ Development</u></b>	<b><u>Date of Consideration</u></b>	<b><u>Approval Conditions</u></b>
A/NE-FTA/22	Temporary Open Storage of Vehicles and Vehicle Park for a Period of 12 Months.	25.9.1998 (approved for a period of 12 months)	A1, A6, A10 & A17
A/NE-FTA/32	Temporary Open Storage of Containers & Repair Workshop for 3 Years	28.1.2000 (revoked on 28.10.2000)	A6, A15, A17 & A18
A/NE-FTA/41	Temporary Open Storage of Containers and Vehicle Park for a Period of 3 Years	9.11.2001 (on review) (approved for a period of 1 year)	A2, A3, A6, A11, A15, A17, A18 & A19
A/NE-FTA/65	Temporary Open Storage of Container Vehicles and Vehicle Park for a Period of 3 Years	10.9.2004 (approved for a period of 1 year) (revoked on 10.8.2005)	A2, A3, A6, A13, A17, A18 & A20
A/NE-FTA/72	Temporary Container Vehicle Park and Container Vehicle Repair Workshop for a Period of 3 Years	17.2.2006 (approved for a period of 2 years) (revoked on 17.5.2006)	A4, A5, A7, A13, A17, A18 & A20

A/NE-FTA/100	Temporary Container Vehicle Park and Logistic Loading and Unloading Area for a Period of 3 Years	23.4.2010 (approved for a period of 2 years) (revoked on 23.7.2010)	A9, A11, A12, A18, A21, A24, A26 & A27
A/NE-FTA/110	Temporary Cargo Handling and Forwarding Facility (Logistics Centre) for a Period of 3 Years	4.11.2011	A7, A11, A12, A18, A22, A24, A25, A26 & A27
A/NE-FTA/149	Temporary Cargo Handling and Forwarding Facility (Logistics Centre) for a Period of 3 Years	6.2.2015	A8, A14, A16, A17, A18, A23, A24, A26 & A27

### **Approval Conditions:**

- A1 The provision of parking and loading/unloading spaces, vehicular manoeuvring space and vehicular access
- A2 The submission of parking, loading/unloading, vehicular manoeuvring and vehicular access proposals
- A3 The provision of parking, loading/unloading, vehicular manoeuvring and vehicular access facilities
- A4 The submission of parking, loading/unloading and vehicular access proposals
- A5 The provision of parking, loading/unloading and vehicular access facilities
- A6 The submission and implementation of landscaping proposals
- A7 The submission and implementation of landscape and tree preservation proposals
- A8 The implementation of tree preservation and landscape proposals
- A9 The submission and the implementation of landscaping and tree maintenance proposal
- A10 The submission of a drainage impact assessment and implementation of mitigation measures

- A11 The submission of drainage proposals
- A12 The implementation of the drainage proposals
- A13 The existing drains within the application site should be maintained
- A14 The existing drainage facilities on the site should be maintained
- A15 The provision of drainage facilities
- A16 The submission of a condition record of the existing drainage facilities on-site
- A17 The reinstatement clause
- A18 The revocation clause
- A19 The paving of the site
- A20 The paving within the application site should be maintained
- A21 No night-time operation between 10:00 p.m. and 8:00 a.m. was allowed
- A22 No night-time operation between 8:00 p.m. and 8:00 a.m. was allowed
- A23 No operation between 8:00 p.m. and 8:00 a.m. on Mondays to Saturdays was allowed
- A24 No operation on Sundays and public holidays was allowed
- A25 The existing metal fencing at the site should be maintained
- A26 The submission of proposals for water supplies for fire-fighting and fire service installations
- A27 The provision of water supplies for fire-fighting and fire service installations

**Similar S.16 Applications for Logistic Centre  
in the vicinity of the application site within/partly within the “Agriculture” zone  
in the Fu Tei Au and Sha Ling Area**

**Rejected Applications**

<b><u>Application No.</u></b>	<b><u>Uses/ Development</u></b>	<b><u>Date of Consideration</u></b>	<b><u>Rejection Reasons</u></b>
A/NE-FTA/150	Proposed Temporary Covered Goods Reshuffling Points for a Period of 3 Years	24.7.2015 (On Review)	R1, R2, R3
A/NE-FTA/151 <sup>^</sup>	Proposed Temporary Goods Reshuffling Yards for a Period of 3 Years	24.7.2015 (On Review)	R1, R2, R3
A/NE-FTA/156 <sup>^</sup>	Proposed Temporary Unloading/Loading Platforms for a Period of 3 Years	9.10.2015	R1, R2, R3
A/NE-FTA/173	Proposed Temporary Logistics Yard, Open Storage of Containers and Tyre Repair Workshop for a Period of 3 Years	28.7.2017	R3, R4, R5

Remarks

<sup>^</sup>: Application nos. A/NE-FTA/151 and A/NE-FTA/156 are at the same location

**Rejection Reasons:**

- R1        The application was not in line with the planning intention of the "Agriculture" ("AGR") zone for the area which was primarily intended to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes. It was also intended 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 to justify a departure from such planning intention, even on a temporary basis
- R2        The application did not comply with the Town Planning Board Guidelines No. 13E in that there was no previous planning approval granted at the site; the proposed development

was not compatible with the surrounding land uses which were predominantly rural in character; there were adverse departmental comments on the application; and the applicant had failed to demonstrate that the development would have no adverse environmental and landscape and/or drainage and/or traffic impacts on the surrounding areas.

- R3 The 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.
- R4 The proposed temporary use under application was not in line with the planning intention of the "Agriculture" ("AGR") zone for the Fu Tei Au and Sha Ling area, which was primarily to retain and safeguard good quality 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 justification in the submission for a departure from such planning intention, even on a temporary basis
- R5 The application did not comply with the Town Planning Board Guidelines No. 13E in that there was no previous approval of open storage use granted for the site and no exceptional circumstance to justify sympathetic consideration of the application; there were adverse departmental comments on the application; and the applicants failed to demonstrate that the proposed development would not cause adverse traffic, environmental and landscape impacts on the surrounding areas

**Recommended Advisory Clauses**

- (a) prior planning permission should have been obtained before commencing the development on site;
- (b) to note the comments of DLO/N, LandsD that the owners of the lots concerned shall apply to his office for STW and STT covering all the actual occupation area. The application for STW and STT will be considered by the Government in its landlord capacity and there is no guarantee that they will be approved. If the STW and STT are approved, their commencement date would 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 his office;
- (c) to note the comments of C for T that the vehicular access to the Site via a village track connecting with Man Kam To Road is not under his office's management. The land status of the access leading to the Site should be checked with the lands authority. The management and maintenance responsibilities of the same access should also be clarified with the relevant lands and maintenance authorities accordingly;
- (d) to follow the environmental mitigation measures as set out in the 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by DEP in order to minimise any possible environmental nuisances;
- (e) to note the comments of CE/MN of DSD that the Site is in an area where no public sewer connection is available;
- (f) to note the comments of D of FS that emergency vehicular access arrangement should comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by BD and detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans;
- (g) to note the comments of CE/CE of WSD that 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 should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards;
- (h) to note the comments of CBS/NTW of BD as follows:
  - (i) if the existing structure(s) 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 application;
  - (ii) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent from Building Authority (BA) should be obtained, otherwise they are UBW. An AP 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 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 building works or UBW on the Site under the BO;

- (iv) in connection with (ii) above, the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with B(P)Rs 5 and 41D respectively; and
  - (v) if the Site does not abut a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under B(P)R 19(3) at building plan submission stage; and
- (i) to note the comments of DEMS that the applicant shall approach the electricity supplier for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable (and/or overhead line) within or in the vicinity of the Site. The applicant is also reminded to observe the "Code of Practice on Working near Electricity Supply Lines" established under the Electricity Supply Lines (Protection) Regulation when carrying out works in the vicinity of electricity supply lines.