

**Relevant Extract of 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)**

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 with 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: 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. 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, planning permission could be granted on a temporary basis up to a maximum period of 3 years;
  - (c) Category 3 areas: Applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. In that connection, 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. 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, planning permission could be granted on a temporary basis up to a maximum period of 3 years;
  - (d) Category 4 areas: Applications for open storage and port back-up uses 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, 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 merits.

- (e) Taking into account the increasing demand for cross-boundary car parking facilities, applications for cross-boundary parking facilities at suitable sites in San Tin area, particularly near the existing cross-boundary link in Lok Ma Chau, may also be considered. Application of such nature will be assessed on its own merits, including its nature and scale of the proposed use and the local circumstances, and subject to satisfactory demonstration that the proposed use would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas, and each case will be considered on its individual merits.
2. In assessing applications for open storage and port back-up uses, the other major relevant assessment criteria are also summarised as follows:
- (a) 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;
  - (b) adequate screening of the sites through landscaping and/or fencing should be provided at the periphery of the site within the boundary, especially where sites are located adjacent to public roads or are visible from surrounding residential areas;
  - (c) there will be a general presumption against development on sites of less than 2,000 m<sup>2</sup> for port back-up uses, and below 1,000 m<sup>2</sup> for open storage 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 and concentrate activities within appropriate surroundings, thus minimising sprawl over countryside areas and reducing travel trips;
  - (d) 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;
  - (e) there is a general presumption against conversion of agricultural land and fish ponds to other uses on an ad-hoc basis in rural areas, 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, the Board may refuse to grant permission, or impose a shorter compliance period for the approval conditions, notwithstanding other criteria set out in the Guidelines are complied with.

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

**Approved Applications**

<b>Application No.</b>	<b>Uses/Development</b>	<b>Date of Consideration</b>	<b>Approval Conditions</b>
A/NE-TKL/377*	Renewal of Planning Approval for Temporary Open Storage of Construction Materials for a Period of 3 Years	6.12.2011	A1, A3, A5, A6, A10, A13, A17, A20, A24, A27 & A29
A/NE-TKL/490*	Renewal of Planning Approval for Temporary Open Storage of Construction Materials for a Period of 3 Years	28.11.2014	A1, A3, A5, A6, A14, A16, A19, A20, A23, A24, A27 & A29
A/NE-TKL/539	Proposed Temporary Open Storage (Construction Material) for a Period of 3 Years	28.10.2016 (revoked on 28.9.2018)	A2, A4, A7, A8, A9, A10, A12, A17, A22, A23, A25, A28, A29 & A30
A/NE-TKL/585*	Temporary Open Storage of Construction Materials for a Period of 3 Years	3.8.2018	A1, A3, A5, A6, A11, A15, A18, A21, A23, A25, A26 & A29

**Remarks**

\*: The site of application nos. A/NE-TKL/377, A/NE-TKL/490 and A/NE-TKL/585 involve the same site

**Approval Conditions**

- A1 No night time operation between 6:00 p.m. and 8:30 a.m. was allowed
- A2 No operation between 6:00 p.m. and 9:00 a.m. from Mondays to Fridays was allowed
- A3 No operation on Sundays and public holidays was allowed
- A4 No operation between 12:00 noon and 12:00 p.m. on Saturdays, and no operation on Sundays and public holidays, was allowed
- A5 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
- A6 The peripheral fencing and paving of the site should be maintained

- A7 The provision of boundary fencing on the site
- A8 No container tractor/trailer as defined in the Road Traffic Ordinance was allowed to be parked/stored on or enter/exit the site
- A9 The submission and the implementation of the run-in/out proposal
- A10 The submission of drainage proposals
- A11 The submission of a condition record of the existing drainage facilities on site
- A12 The provision of drainage facilities
- A13 The implementation of drainage proposals
- A14 The existing drainage facilities implemented under application No. A/NE-TKL/377 on the site shall be maintained
- A15 The existing drainage facilities on the site shall be maintained
- A16 The submission of a record of the existing facilities on the site
- A17 The submission and the implementation of landscape and tree preservation proposal
- A18 All existing trees on site shall be properly maintained
- A19 The existing trees and landscaping planting on the site should be maintained
- A20 No workshop activities were allowed
- A21 No workshop activities shall be carried out on the site
- A22 No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities should be carried out on the site
- A23 The provision of fire extinguisher(s)
- A24 The submission of proposals on fire-fighting access, water supplies for fire-fighting and fire service installations
- A25 The submission of proposals for fire service installations and water supplies for fire-fighting
- A26 The implementation of proposals for fire service installations and water supplies for firefighting
- A27 The provision of fire-fighting access, water supplies for fire-fighting and fire service installations
- A28 The provision of water supplies for fire-fighting and fire service installations
- A29 Revocation clause
- A30 Reinstatement clause

## **Rejected Applications**

<b>Application No.</b>	<b>Uses/Development</b>	<b>Date of Consideration</b>	<b>Rejection Reasons</b>
A/NE-TKL/328	Proposed Temporary Open Storage of Construction Materials for a Period of 3 Years	26.3.2010 (on Review)	R1, R2 & R3
A/NE-TKL/418	Temporary Open Storage of Construction Materials (Steel Bars) for a Period of 3 Years	24.5.2013	R1, R4 & R5

## **Rejection Reasons**

- R1 The proposed development was not in line with the planning intention of the “AGR” zone in the Ta Kwu Ling area which was primarily 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 for a departure from the planning intention, even on a temporary basis.
- R2 The proposed use did not comply with the TPB 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 there were adverse departmental comments on the application and local objections against the application.
- R3 The proposed use would generate adverse environmental, landscape and traffic impacts on the surrounding areas.
- R4 The development was not in line with the 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; there were adverse departmental comments and local objection on the application and the applicant had failed to demonstrate that the development would not generate adverse landscape, drainage and environmental impacts on the surrounding areas.
- R5 Approval of the application would set an undesirable precedent for other similar applications within this part of the "AGR" zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.

**Recommended Advisory Clauses**

- (a) to note the comments of the District Lands Officer/North, Lands Department as follows:
- (i) the Site comprises private lots. The lots are Old Schedule lot held under the Block Government Lease (demised for agriculture use) without any guaranteed right of access. The applicant should make his own arrangement for acquiring access. The Government shall accept no responsibility in such arrangement, and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the proposed use;
  - (ii) the MOT was issued in the early 1970 to allow the erection of temporary structures on Lot No. 1834 S.C in D.D. 76 (now designated as 1834 S.C. RP). The users of the MOT structures include domestic, kitchen and shade. The MOT structures were found deserted at the time of site inspection. Further, the dimensions of the existing structures do not tally with the ones permitted under the MOT concerned. The locations of the MOT structures, however, fall outside the Site;
  - (iii) apart from the concerned MOT structures, temporary structure was also erected on the part of Lot No. 1834 S.C RP in D.D. 76 that falls within the Site. This existing structure was erected without approval from his office. The aforesaid structure is not acceptable under the Lease concerned. Her office reserves the right to take enforcement actions against the aforesaid structure;
  - (iv) only part of Lot No. 1831 S.B RP in D.D. 76 (the Lot) falls within the Site. The other part of the Lot, which is situated on the opposite side of the Site (separated by Sha Tau Kok Road), has not been included in the Site, and is overgrown with weeds at the time of site inspection; and
  - (v) should the planning application be approved, the owner(s) of the lots concerned shall apply to this office for a Short Term Waiver (STW) to cover the proposed structures on the Site. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW is approved, it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fee as considered appropriate by this office;
- (b) to note the comments of the Commissioner for Transport as follows:
- (i) the applicant should advise the estimated amount of building material to be stored in the subject site;
  - (ii) the applicant should advise the traffic generation and attraction from and to the site and the traffic impact to the nearby road links and junctions;
  - (iii) the applicant shall advise the width of the vehicular ingress and egress and confirm if one-way arrangement of the access road would be adopted within the Site according to the submitted application. If one-way arrangement is adopted, the applicant shall provide the necessary road marking and traffic signs accordingly;
  - (iv) the ingress to the Site would be in conflict with the existing bus lay-by. The applicant should review the access arrangement and assess the impact to the operation of the public transport;

- (v) the applicant shall justify the adequacy of the parking spaces and loading/unloading spaces so provided by relating to the number of vehicles visiting the subject site;
  - (vi) the applicant shall confirm if any medium / heavy goods vehicles (MGVs/HGVs) would visit the Site and advise the loading / unloading arrangement for MGVs/HGVs;
  - (vii) the applicant shall advise the dimension of vehicles used in the swept path analysis as shown in the submitted application. The applicant shall also demonstrate the satisfactory manoeuvring of vehicles into and out of the car parking spaces, preferably using the swept path analysis;
  - (viii) the applicant shall advise the management/control measures to be implemented for the proposed parking spaces to ensure no queuing of vehicles outside the subject site; and
  - (ix) adequate traffic signs should be provided to alert the public that there will be vehicles entering to and exiting from the subject site;
- (c) to note the comments of the Chief Highway Engineer/New Territories East, Highways Department as follows:
- (i) the section of Sha Tau Kok Road – Ma Mei Ha adjacent to the Site is under his maintenance purview. However, it appears that the area forming the future ingress and egress between Sha Tau Kok Road – Ma Mei Ha Section and the Site falls on unallocated government land which is outside his maintenance purview. The applicant is required to sort out the land issues with relevant land authority;
  - (ii) the u-channel proposed along the site boundary should be so designed that no surface runoff will flow from the Site onto the adjacent public road; and
  - (iii) the applicant is required to construct a proper ingress and egress for the Site according to HyD's Standard Drawings. Upon termination of the application, the applicant is required to reinstate the ingress and egress to their original state and to his satisfaction at his own cost;
- (d) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department as follows:
- (i) the drainage proposal is considered unacceptable as it is found that the stormwater drains from the Site is proposed to be connected to the existing public sewerage system. The applicant is advised to identify the available drainage outlet, seek the relevant departments' / parties' consent / comments for making a drainage connection and revise the drainage proposal accordingly; and
  - (ii) there is public sewerage system in the vicinity;
- (e) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department as follows:
- (i) there is no record of submission of the proposed temporary buildings / structures to the BD for approval;
  - (ii) the proposed temporary structures are subject to the control of Part VII of the Building (Planning) Regulations and require prior approval and consent under the Buildings Ordinance (BO). The proposed drainage works shall comply with Building (Standards

of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations. Both the building works and drainage works require prior approval and consent under the BO;

- (iii) before any new building works (including containers/open sheds/shelters 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 unauthorised building works (UBW). An Authorised Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO;
  - (iv) 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;
  - (v) the Site shall be provided with means of obtaining access thereto from a street under the Building (Planning) Regulation 5 and emergency vehicular access shall be provided under the Building (Planning) Regulation 41D;
  - (vi) If the Site is not abutting on a specified street having a width not less than 4.5m, the development intensity shall be determined by BD under Building (Planning) Regulation 19(3) at building plan submission stage; and
  - (vii) detailed comments will be formulated at building plan submission stage;
- (f) to note the comments of the Director of Fire Services as follows:
- (i) in consideration of the design/ nature of the proposed use, the applicant is advised to submit relevant layout plans incorporated with the proposed fire service installations (FSIs) to his satisfaction;
  - (ii) the applicant should be advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy and the location of where the proposed FSI to be installed should be clearly marked on the layout plans;
  - (iii) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans; and
  - (iv) to address the approval condition regarding the provision of fire extinguisher, the applicant is advised to submit a valid fire certificate (FS 251) to his office for approval; and
- (g) 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; and the applicant should be reminded to follow EPD's ProPECC PN5/93 for the provision of septic tank and soakaway system and/or other waste water treatment facilities, and that it is the applicant's responsibility to ensure proper and full implementation of all precautionary and mitigation measures including regular maintenance of the existing septic tank to keep it in good operating condition.