

**Extract of Town Planning Board Guidelines
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.

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: 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.

Previous Applications covering the Application Site

Approved Applications

<u>Application No.</u>	<u>Zoning</u> (at the time of approval)	<u>Development/Use</u>	<u>Date of Consideration</u>	<u>Approval Conditions</u>
A/YL-PS/157	“U”	Proposed Temporary Open Storage of Construction Materials and Machinery for a Period of 3 Years	5.3.2004 (TPB) (Revoked on 5.2.2006)	(1) to (5)
A/YL-PS/217	“U”	Temporary Open Storage of Construction Materials and Machineries for a Period up to 5.3.2007	24.6.2005	(1) to (5)
A/YL-PS/264	“U”	Renewal of Planning Approval for Temporary Open Storage of Construction Materials and Machineries under Application No. A/YL-PS/217 for a Period of 3 Years	2.2.2007	(1), (5) to (9)
A/YL-PS/314	“U”	Temporary Open Storage of Construction Materials and Machineries for a Period of 3 Years	29.1.2010 (Revoked on 29.5.2012)	(1), (4) to (7), (9) to (12)
A/YL-PS/389	“U”	Temporary Open Storage of Construction Materials and Machineries and Storage of Tools and Parts with Ancillary Site Office for a Period of 3 Years	7.9.2012	(1), (2), (4), (5), (7), (9) to (15)
A/YL-PS/494	“U”	Temporary Open Storage of Construction Materials and Machineries and Storage of Tools and Parts with Ancillary Site Office for a Period of 3 Years	9.10.2015	(1), (4) to (7), (9) to (14) & (16)

Approval Conditions

- (1) Restrictions on operation hours.
- (2) Submission and implementation of landscape and/or tree preservation proposal.
- (3) Submission of drainage impact assessment and provision of flood mitigation measures.
- (4) Provision of paving and/or fencing.
- (5) Revocation clause(s).
- (6) Maintenance of existing trees/landscape planting/vegetation.
- (7) Maintenance of existing drainage facilities.
- (8) Submission of an as-built/planted plan of existing planting.
- (9) Submission of condition record of existing drainage facilities.
- (10) No workshop facilities.
- (11) Submission and implementation of fire service installations proposal.
- (12) Reinstatement clause.
- (13) Provision of a waterworks reserve within 1.5m from the centreline on both sides of the existing water mains.
- (14) Provision of fire extinguisher(s).
- (15) Submission and implementation of run-in/out proposal.
- (16) No vehicle is allowed to queue back to or reverse onto/from public road.

Rejected Applications

<u>Application No.</u>	<u>Zoning</u> (at the time of approval)	<u>Development/Use</u>	<u>Date of Consideration</u>	<u>Rejection Reasons</u>
A/DPA/YL-PS/12	“U”	Proposed Open Storage of Containers	18.3.1994	(1) to (5)
A/YL-PS/227	“U”	Proposed Residential Development cum Retail Facilities, Public Transport Terminus, and a Kindergarten	4.9.2009	(5) to (8)

Reasons for Rejection

- (1) Not in line with the planning intention of the area.
- (2) Not compatible with the surrounding land uses.
- (3) Insufficient information to demonstrate no adverse traffic and/or environmental and/or sewerage and/or drainage and/or visual impacts on the surrounding areas.
- (4) Not in line with Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses.
- (5) Approval of the application would set an undesirable precedent for other similar applications to proliferate in the surrounding area.
- (6) Approval of proposed development is considered piecemeal and premature.
- (7) Existing and planned infrastructure is inadequate to cater for a proposed development of this scale and intensity.
- (8) The proposed development is considered out of keeping with the surrounding low-rise and low-density rural setting.

**Similar Applications within the same “C(1)”, “O” and “O(1)” Zones
on the draft Hung Shui Kiu and Ha Tsuen OZP No. S/HSK/1**

Approved Applications

<u>Application No.</u>	<u>Zoning</u> (at the time of approval)	<u>Development/Use</u>	<u>Date of Consideration</u>	<u>Approval Conditions</u>
A/YL-PS/460	“U”	Temporary Open Storage of Construction Materials and Construction Equipment for a Period of 3 Years	14.11.2014	(1) to (7), (12) to (15)
A/HSK/21	“C(1)” and “Road”	Renewal of Planning Approval for Temporary Open Storage of Construction Materials and Construction Equipment for a Period of 3 Years	10.11.2017	(1) to (5), (7) to (11), (14) & (15)

Approval Conditions

- (1) Restrictions on operation hours.
- (2) No workshop activities.
- (3) Only medium goods vehicles not exceeding 24 tonnes are allowed to enter/be parked on site.
- (4) No vehicle is allowed to queue back or reverse onto/from public road.
- (5) Submission and implementation of fire service installations proposal.
- (6) Submission and implementation of drainage proposal.
- (7) Maintenance of implemented drainage facilities.
- (8) Maintenance of all existing trees and plantings.
- (9) Maintenance of the existing boundary fencing.
- (10) Submission of a condition record of existing drainage facilities.
- (11) Provision of fire extinguisher(s) and the submission of a valid fire certificate (FS251).
- (12) Submission and implementation of landscape and tree preservation proposal.
- (13) Provision of boundary fencing.
- (14) Revocation clause(s).
- (15) Reinstatement clause.

Rejected Applications

<u>Application No.</u>	<u>Zoning</u> (at the time of approval)	<u>Development/Use</u>	<u>Date of Consideration</u>	<u>Rejection Reasons</u>
A/YL-PS/350	“GB” and “U”	Temporary Open Storage and Workshop (Dismantling and Storage of Reusable/Disused Computers) for a Period of 3 Years	22.6.2012 (TPB)	(1) to (6)

Rejection Reasons

- (1) Not in line with Town Planning Board Guidelines for Application for Open Storage and Port and Back-up Uses.
- (2) Insufficient information to demonstrate no adverse traffic and/or environmental and/or drainage impacts on the surrounding areas.
- (3) Approval of the application would set an undesirable precedent for other similar applications to proliferate in the surrounding area.
- (4) Not in line with the planning intention of the “Green Belt” zone.
- (5) Not in line with Town Planning Board Guidelines for Application for Development within Green Belt Zone.
- (6) Adverse departmental comments and local objection.

Advisory Clauses

- (a) to resolve any land issues relating to the development with the concerned owner(s) of the Site;
- (b) to note that the Site might be resumed at any time during the planning approval period for implementation of government projects;
- (c) to note the comments of District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) that the Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government. The Site adjoins Gazetted Railway Reserve of Railway Protection Plan Boundary – West Rail Protection Boundary and falls partly within the Approved Railway Reserve of RDS2014 Hung Shui Kiu Station Limit of Area of Influence (HyDTC No. 3/2015). The Site is accessible from Yick Yuen Road through government land (GL) and private lots. His office provides no maintenance works to the GL involved and does not guarantee any right-of-way over the GL to the Site. The private lots which are covered by Short Term Waivers (STWs) are listed below:

Lot No. in D.D. 124	STW	Purposes
3371	3278	Ancillary Use to Open Storage of Construction Materials and Machineries
3373	3279	
3228 RP	4576	Temporary Open Storage of Construction Materials and Machineries and Storage of Tools and Parts with Ancillary Site Office
3206 RP, 3226 RP, 3231, 3233, 3339 & 3375	4577	
3340 & 3341	4578	
3374	4579	

The STW holders will need to apply to his office for modification of the STW conditions where appropriate and the lot owner(s) of the lot(s) without STW will need to apply to his office for permit the structures to be erected or regularise any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Application(s) for any of the above will be considered by the LandsD acting in the capacity of 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 fees, as may be imposed by the LandsD;

- (d) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that if the existing structures are erected on leased land without approval of the BD (not being a New Territories Exempted House), they are unauthorised under the Buildings Ordinance (BO) and should not be designated for any approved use under the application. Before any new building works (including container converted structures) are to be carried out on the leased land in 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 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;

- (e) to note the comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) that sufficient manoeuvring spaces shall be provided within the Site. The local track leading to the Site is not under TD's purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site;
- (f) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains. HyD shall not be responsible for the maintenance of any access connecting the Site and Yick Yuen Road;
- (g) to note the comments of the Chief Engineer 2-2/Railway Development (CE/RD 2-2), HyD that part of the Site falls within the area of influence of the proposed Hung Shui Kiu Station. The Site is also close to the railway protection boundary of West Rail Line. MTR Corporation Limited (MTRCL) should be consulted with respect to operation, maintenance, safety and future construction of the West Rail;
- (h) to note the comments of the MTRCL that the Site falls within the West Rail protection boundary, all works shall comply with the requirements as stated in the Environment, Transport and Works Bureau Technical Circular (Works) No. 33/2003 or PNAP APP-24 whichever is applicable for MTR protection. For any works that involve lifting appliances adopted on site, they shall be positioned as far as possible away from the West Rail tracks/structures. MTR's prior agreement on the locations of these lifting appliances before their operation on site shall be sought;
- (i) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that existing water mains will be affected as shown on **Plan A-2** of the RNTPC Paper. A Waterworks Reserve (WWR) within 1.5m from the centreline of the water mains shall be provided to WSD. No structure shall be built or materials stored within this WWR. Free access shall be made available at all times for staff of the Director of Water Supplies or their contractors to carry out construction, inspection, operation, maintenance and repair works. No trees or shrubs with penetrating roots may be planted within WWR or in the vicinity of the water mains shown on **Plan A-2** of the RNTPC Paper. The 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;

- (j) to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department to minimize potential environmental nuisance to the surrounding area;
- (k) to note the comments of the Director of Fire Services (D of FS) that in consideration of the design/nature of the proposal, FSIs are anticipated to be required. 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” (in **Appendix VI** of the RNTPC Paper) should be adhered to. The applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans; and
- (l) to note the comments of the Director of Food and Environmental Hygiene (DFEH) that no Food and Environmental Hygiene Department (FEHD)’s facilities will be affected and such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding. For any waste generated from such activity/operation, the applicants should arrange disposal properly at their own expenses. Proper license/permit issued by FEHD is required if there is any catering service/activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.