

**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.
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.

## **Previous Applications Covering the Site**

### **Approved Applications**

<b><u>Application No.</u></b>	<b><u>Development/Use</u></b>	<b><u>Date of Consideration</u></b>	<b><u>Approval Conditions</u></b>
A/TM-LTYT/126	Temporary Sale of Vehicles (Private Cars and Light Goods Vehicles) and Office for a Period of 3 Years	10.6.2005 [Revoked on 10.12.2005]	(1), (3) to (5), (7), (8), (15), (16)
A/TM-LTYT/135	Temporary Sale of Vehicles (Private Cars and Light Goods Vehicles) and Office for a Period of 3 Years	17.3.2006	(1) to (5), (7), (8), (15), (16)
A/TM-LTYT/179	Renewal of Planning Approval for Temporary Sale of Vehicles (Private Cars and Light Goods Vehicles) and Office for a Period of 3 Years	27.2.2009 [Revoked on 27.8.2009]	(1) to (3), (6), (9), (10), (11) , (15), (16)
A/TM-LTYT/192	Temporary Sale of Vehicles (Private Cars and Light Goods Vehicles) and Office for a Period of 3 Years	4.12.2009 [Revoked on 4.8.2012]	(1) to (3), (6) to (8), (10) to (11), (13), (15), (16)
A/TM-LTYT/296	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	5.6.2015	(1), (7), (8), (10), (11), (14) to (16)

### **Approval Conditions**

- (1) Restriction on operation hours
- (2) Restriction on types of vehicles to be allowed to be parked in/stored on site
- (3) No workshop activities including car repairing, dismantling and paint spraying
- (4) Provision of fire extinguisher
- (5) Provision of the vehicular access
- (6) Maintenance of the vehicular access
- (7) Submission of drainage proposal
- (8) Implementation of drainage facilities
- (9) Maintenance of the drainage facilities
- (10) Submission of fire service installations (FSIs) proposals
- (11) Implementation/Provision of FSIs
- (12) Submission of proposal demonstrating the vehicular access would not affect the existing drainage channel alongside Castle Peak Road-Hung Shui Kiu section
- (13) Implementation of proposal demonstrating the vehicular access would not affect the existing drainage channel alongside Castle Peak Road-Hung Shui Kiu section
- (14) No vehicle to enter or to be parked/stored on site.
- (15) Revocation clause
- (16) Reinstatement clause

### **Rejected Applications**

<b><u>Application No.</u></b>	<b><u>Development/Use</u></b>	<b><u>Date of Consideration</u></b>	<b><u>Approval Conditions</u></b>
A/TM-LTYT/243	Temporary Sale of Vehicles (Private Cars & Light Goods Vehicles) for a Period of 3 Years	15.3.2013	(1) to (2)

### **Reasons for Rejection**

- (1) Failure to demonstrate that the proposed development would not generate adverse drainage and traffic impacts.
- (2) Approval of the application with repeated non-compliances with approval conditions would set an undesirable precedent and nullifying statutory planning control mechanism.

**Similar s16 Applications within the same “V” zone  
on the Draft Lam Tei and Yick Yuen Outline Zoning Plan No. S/TM-LTYT/9**

**Approved Applications**

<b><u>Application No.</u></b>	<b><u>Development/Use</u></b>	<b><u>Date of Consideration</u></b>	<b><u>Approval Conditions</u></b>
A/TM-LTYT/210	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	4.3.2011 (Revoked 4.6.2013)	(5) to (7), (10), (11)
A/TM-LTYT/245	Proposed Temporary Shop and Services (Convenience Store and Real Estate Agency) for a Period of 3 Years	21.12.2012 (Revoked on 21.3.2015)	(5) to (7), (10), (11)
A/TM-LTYT/264	Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	8.11.2013	(1), (3), (5) to (7), (10), (11)
A/TM-LTYT/268	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	20.6.2014 (s17)	(1), (3) to (5), (10), (11)
A/TM-LTYT/321	Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	9.12.2016	(1), (3), (5) to (7), (10), (11)
A/TM-LTYT/345	Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	16.3.2018	(1), (3), (5), (6), (7), (8), (9), (10), (11)

**Approval Conditions**

- (1) No night time operation
- (2) No operation on Sundays and public holidays
- (3) No vehicular access to/from and no parking on the site at any time
- (4) Maintenance of existing trees and shrubs within the site at all times
- (5) Submission and implementation of drainage proposal
- (6) Submission and implementation of FSIs proposal
- (7) Submission and implementation of landscape and/or tree preservation proposals
- (8) Provision of boundary fencing
- (9) Maintenance of implemented drainage facilities
- (10) Revocation clauses
- (11) Reinstatement clauses

**Detailed Comments of Drainage Services Department**

1. Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
  - (a) The applicant is reminded to submit updated drainage proposal if there are proposed changes to the implemented drainage facilities.
  - (b) When submitting the updated drainage proposal, the applicant should refer to the guidelines as specified in “Technical Note to prepare a Drainage Submission” which is available at DSD’s website: [http://www.dsd.gov.hk/EN/Technical\\_Documents/DSD\\_Guidelines/index.html](http://www.dsd.gov.hk/EN/Technical_Documents/DSD_Guidelines/index.html)
  - (c) The proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at their own expense. For any works to be carried out outside the lot boundary, the applicant should consult DLO/TM and seek consent from relevant lot owners before commencement of the drainage works.
  - (d) The applicant should implement the drainage facilities on site in accordance with the updated drainage proposal.
  - (e) The applicant is required to rectify the drainage system if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by a failure of the drainage system.
  - (f) The proposed development should neither obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas.
  - (g) EPD should be consulted regarding sewerage aspects of the proposed development.

**Advisory Clauses**

- (a) to resolve any land issue relating to the development with the concerned owner(s) of the application site;
- (b) to note the comments of District Lands Officer/Tuen Mun, Lands Department (DLO/T, LandsD) that the Site falls within Lot 3674 RP in D.D. 124 (the Lot). The Lot is an Old Schedule Lot 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. A Short Term Waiver No. MR 17001 (“STW”) was issued by his office to permit erection of structures for temporary shop and service (real estate agency) within the Site. Site inspection revealed that a structure used for office of real estate agency purpose was found at the Site. The use and dimensions of the structure comply with the terms of STW. The Site is accessible via a strip of government land leading from Castle Peak Road. His office does not carry out maintenance works for the said road nor guarantee that right-of-way will be given to the Site. Notwithstanding the above, his office reserves the right to take enforcement actions as consider appropriate against any unauthorised erection/extension/alteration of the structures concerned or any other breaches of the waiver conditions or the lease conditions should the same be found irrespective of whether planning permission will be given or not. His office also reserves the right to take any action against any unauthorised occupation of government land.
- (c) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that there is no record of approval by the Building Authority for the structures existing at the Site and BD is not in a position to offer comments on their suitability for the use related to the application. If the existing structures are erected on leased land without approval of the BD (not being a NTEH), 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 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 Unauthorised Building Works (UBW). An Authorised Person (AP) should be appointed as the coordinator 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 constructed 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 respectively. Formal submission under the BO is required for any proposed new works, including any temporary structures;
- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that according to the application submission, there is no vehicular access to the Site is proposed. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (e) to note the comments of Chief Engineer/Mainland North, Drainage Services

Department (CE/MN, DSD) that the applicant is reminded to submit updated drainage proposal if there are proposed changes to the implemented drainage facilities. When submitting the updated drainage proposal, the applicant should refer to the guidelines as specified in “Technical Note to prepare a Drainage Submission” which is available at DSD’s website: [http://www.dsd.gov.hk/EN/Technical\\_Documents/DSD\\_Guidelines/index.html](http://www.dsd.gov.hk/EN/Technical_Documents/DSD_Guidelines/index.html). The proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at their own expense. For any works to be carried out outside the lot boundary, the applicant should consult DLO/TM and seek consent from relevant lot owners before commencement of the drainage works. The applicant should implement the drainage facilities on site in accordance with the updated drainage proposal. The applicant is required to rectify the drainage system if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by a failure of the drainage system. The proposed development should neither obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas.

- (f) to follow the “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;
- (g) to note the comments of the Director of Environmental Protection (DEP) that the applicant is advised that public sewer is available in the vicinity along Castle Peak Road for connection;
- (h) 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. 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 FSI to be installed should be clearly marked on the layout plans. The applicant is reminded that if the proposed structure(s) is required to comply with BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans;
- (i) to note the comments of the Director of Electrical and Mechanical Services (DEMS) that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organising and supervising any activity near the underground cable or overhead line under the mentioned application should approach the electricity supplier (i.e. CLP Power) 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 and/or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.