

**Relevant extracts of the Town Planning Board Guidelines No. 34B for
“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 circumstance 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 Application Site

Approved Application

	<u>Application No.</u>	<u>Proposed Use/Development</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
1	A/YL-TT/301	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	20.4.2012 [revoked on 20.7.2014]	(1), (2), (3), (4), (5), (6), (7), (8)
2	A/YL-TT/343	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	16.1.2015	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11)

Approval Condition(s):

- (1) No night-time operation was allowed on the site during the planning approval period.
- (2) Submission and implementation of run-in/out proposal.
- (3) Submission and implementation of landscape and/or tree preservation proposals.
- (4) Submission of drainage proposal and/or provision of drainage facilities.
- (5) Submission and/or implementation of fire service installations.
- (6) Revocation of planning approval if conditions not complied with by a given date/at any time during the approval period.
- (7) Reinstatement of the site to an amenity area upon expiry of planning permission.
- (8) Submission and implementation of parking arrangement proposal.
- (9) No open storage activity is allowed on the site.
- (10) No vehicle parking, queuing and reverse manoeuvring are allowed on public road and at the vehicular access.
- (11) The provision of boundary fencing on the site.

Rejected Application

	<u>Application No.</u>	<u>Proposed Use/Development</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejection Reason(s)</u>
1	A/YL-TT/296	Temporary Vehicles Trading (Open Storage of Used Vehicles for Sale with Ancillary Office) for a Period of 3 Years	6.1.2012	(1), (2), (3), (4), (5), (6), (7), (8)

Rejection Reason(s):

- (1) Not in line with the planning intention of the "V" zone on the OZP. The development was incompatible with the surrounding and no strong justification had been given in the submission for a departure from the planning intention, even on a temporary basis.
- (2) Not in line with the Town Planning Board Guidelines for 'Application for Open Storage and Port Back-up Uses' (TPB PG-No.13E) in that there was no exceptional circumstances to merit approval of the case, there was no previous planning approval granted for the site and there were adverse departmental

comments and local objection against the applied use. There was no information in the submission to demonstrate that the applied use would not cause adverse environmental and landscape impacts on the surrounding areas.

- (3) There was no information in the submission to demonstrate why suitable sites within the two areas were zoned "Open Storage" ("OS") on the Tai Tong OZP could not be made available for the applied use.
- (4) Approval of the application would set an undesirable precedent for other similar uses to proliferate into the zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.

Similar Applications within the Same “V” Zone on the OZP

Approved Applications

	<u>Application No.</u>	<u>Proposed Use/Development</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
1	A/YL-TT/289	Tempoary Shop and Services (Real Estate Agency) for a Period of 3 Years	19.8.2011 [revoked on 19.2.2012]	(1), (2), (3), (4), (5), (6), (7)
2	A/YL-TT/302	Tempoary Shop and Services (Real Estate Agency) for a Period of 3 Years	20.4.2012 [revoked on 20.10.2013]	(1), (2), (3), (4), (5), (6), (7), (8)
3	A/YL-TT/327	Tempoary Shop and Services (Real Estate Agency) for a Period of 3 Years	22.12.2015 (allowed on appeal for 12 months) [revoked on 22.3.2016]	(1), (2), (3), (4), (5), (6), (7), (8), (10), (11), (12), (13)
4	A/YL-TT/384	Proposed Temporary Shop and Services (Local Provision Store with Ancillary Storage Area and Real Estate Agency) for a Period of 3 Years	29.7.2016	(1), (3), (4), (5), (6), (9), (14)

Approval Condition(s):

- (1) No night-time operation during specific time limit is allowed on the site.
- (2) Submission and/or implementation of (accepted) run-in/out proposal.
- (3) Submission and/or implementation of landscaping and tree preservation proposal.
- (4) Submission of (revised) drainage proposal and/or provision/implementation of drainage proposal/facilities.
- (5) Submission and/or implementation of (accepted) fire service installations proposal.
- (6) Revocation of planning approval for non-compliance with conditions by a specified date/at any time during the approval period.
- (7) Reinstatement of the application site upon expiry of planning permission.
- (8) Submission and implementation of parking arrangement proposal.
- (9) Maintenance of the implemented drainage facilities at all times.
- (10) No car repair business, nor any activity not permitted shall be carried on in the site.
- (11) No open storage at the uncovered areas is allowed on the site at any time during the planning approval period.
- (12) Provision of boundary fencing on the site.
- (13) No vehicle parking, queuing and reverse manoeuvring are allowed on public road and at the vehicular access at any time during the planning approval period.
- (14) No vehicle to be parked/stored on or enter/exit the site.

Rejected Applications

	<u>Application No.</u>	<u>Proposed Use/Development</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejection Reason(s)</u>
1	A/YL-TT/344	Tempoary Shop and Services (Real Estate Agency) for a Period of 3 Years	15.5.2015 (on review)	(1), (2)
2	A/YL-TT/357	Tempoary Shop and Services (Environmental Consultancy and Landscaping Services) for a Period of 3 Years	3.6.2016 (on review)	(1), (2)

Rejection Reason(s):

- (1) Failure to demonstrate that the development would not cause adverse traffic, landscape and drainage impacts on the surrounding area.
- (2) Previous planning permissions granted to the applicant were revoked due to non-compliance of the approval conditions. Approval of the application with repeated non-compliances with approval conditions would set an undesirable precedent for other similar applications, thus nullifying the statutory planning control mechanism.

Advisory Clauses

- (a) to note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) that the Site comprises Old Scheduled Agricultural Lots held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. Lot No. 4892 S.A, 4892 RP and 4893 in D.D. 116 are covered by Short Term Waivers (STWs) No. 4338, 4340 and 4341 respectively to permit structures erected thereon for the purpose of “Temporary Shop and Services (Real Estate Agency)”. The Government land (GL) adjoining Lot No. 4891 RP in D.D. 116 within the Site is covered by Short Term Tenancy (STT) No. 2910 for the purpose of “Temporary Shop and Services (Real Estate Agency)”. Portion of Lot No. 4891 RP in D.D. 116 is covered by Short Term Waiver (STW) No. 633 to permit structures erected thereon for the purpose of “Kindergarten”. The Site is accessible to Tai Tong Road via GL. His office does not provide maintenance work for GL involved and does not guarantee right-of-way. There are 3 Small House applications located within boundary of the Site and 2 such applications within the 30m radius circle of the Site under processing. The Small House applications are still in preliminary stage. His office has no comment on the application provided that the Site will be available in case the Small House applications are eventually approved by his office. The STW/STT holder(s) will need to apply to his office for modification of the STW/STT conditions if there is any irregularities on site 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 regularize any irregularities on the Site. Such application(s) will be considered by LandsD acting in the capacity as landlord 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 fee, as may be imposed by LandsD;
- (b) to note the comments of the Commissioner for Transport that the applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no vehicle queuing and no reverse movement on public road are allowed;
- (c) to note the comments of the Chief Engineer/New Territories West, Highways Department (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. His department is not and shall not be responsible for the maintenance of the existing vehicular access connecting the Site and Tai Tong Road;
- (d) to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department;
- (e) to note the comments of the Director of Fire Services’ comments that the fire service installations (FSIs) proposal attached to the application is considered acceptable to him. The applicant is advised that the installation/ maintenance/ modification/ repair work of FSI shall be undertaken by a Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/ maintenance/ modification/ repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to him. In addition, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire

services requirements will be formulated upon receipt of formal submission of general building plans;

- (f) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) that if the existing structures are erected on leased land without approval of BD (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any 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 BD should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with BO. 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 works or UBW on the site under BO; and
- (g) to note the comments of the Director of Electrical and Mechanical Services that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the 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 Site. The parties concerned 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.