

Relevant Extract of Town Planning Board Guidelines for Application for Eating Place  
within "Village Type Development" Zone in Rural Areas under  
Section 16 of the Town Planning Ordinance  
(TPB PG-No. 15A)

1. In June 2003, the Town Planning Board Guidelines for Application for Eating Place within "Village Type Development" Zone in Rural Areas under Section 16 of the Town Planning Ordinance (TPB PG-No. 15A) were promulgated. Extracts of the scope and application of the guidelines are set out as follows:
  - (a) the general planning intention of the "Village Type Development" ("V") zone in the rural New Territories is to demarcate both existing recognized villages and areas of land considered suitable for village expansion. It is the planning intention to concentrate village and related development within the "V" zone for a more orderly development pattern, economic and efficient use of land and provision of infrastructure and services. A selective range of uses including commercial, community and recreational uses may be permitted within this zone on application to the Town Planning Board (the Board) on the basis that these uses would serve the needs of villagers and would not adversely affect the character of villages;
  - (b) in view of the above planning intention, eating place use (such as restaurant and alfresco dining facility) in the "V" zone should be compatible with the surrounding land uses and would not cause any nuisance or cause inconvenience to the local residents. The development should not have adverse impacts on traffic, drainage, sewage disposal and fire safety aspects. In addition, it should not reduce the land area available for village type development. For sites located adjacent to recreational uses or tourist attraction spots, favourable consideration may be given if the above considerations are not compromised; and
  - (c) even if a proposal is considered acceptable in land-use planning terms and other planning criteria are met, under normal circumstances only a temporary approval for a maximum period of three years should be considered so as to retain planning control on the development at the site and to cater for changing circumstances in future.

2. In assessing the applications, the main planning criteria are also summarized as follows:

- (a) the eating place use should not create any environmental nuisance or cause inconvenience to the residents nearby. Such use should preferably be located at the fringe of a village area, e.g. area abutting the main road. For any eating place use that is situated amidst the existing village houses, sympathetic consideration may only be given if there are no local objections from the local residents;
- (b) the eating place use should not have any adverse traffic impact on its surrounding areas nor should it affect any pedestrian circulation in the area;
- (c) sympathetic consideration may also be given to any application which would not have adverse impacts on drainage, sewage disposal facilities or fire safety aspects;
- (d) for any application on open ground as an extension to ground floor eating place in a New Territories Exempted House or as a free-standing development, the eating place use should not adversely affect the land availability for village type development. Application sites with configurations/dimensions which are not suitable to be delineated separately for village type development or which are considered not suitable for village type development (e.g. within 20m of public roads constructed/maintained by the Highways Department or 15m of other local public roads), sympathetic consideration may be given by the Board on individual merits;
- (e) for a village located adjacent to recreational uses or tourist attraction spots, favourable consideration may be given to eating place use which will provide catering facilities to serve the visitors and tourists. In such circumstances, adequate car parking spaces should be provided to serve the eating place use as required by the Transport Department. If it is impossible to provide car parking spaces at the application site, the applicant should demonstrate that there are adequate car parking facilities conveniently located in the vicinity to serve the eating place use; and
- (f) all other statutory or non-statutory requirements of relevant Government departments should be met.

Similar Application within the Same "V" Zone on  
approved Kam Tin South Outline Zoning Plan

Approved Application

	<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration By RNTPC/TPB</u>	<u>Approval Conditions</u>
1.	A/YL-KTS/165	Restaurant	30.4.1999	(1), (2), (3), (4), (5)

Approval Conditions

- (1) Submission and implementation of landscape proposal
- (2) Provision of drainage facilities
- (3) Provision of vehicular access arrangement and the design of the layout of the car park
- (4) Provision of emergency vehicular access, water supplies for fire-fighting and fire services installations
- (5) The permission shall cease to have effect on a specified date unless prior to the said date either the development hereby permitted is commenced or this permission is renewed



**Advisory Clauses**

- (a) resolve any land issue relating to the development with the concerned owner(s) of the Premises;
- (b) prior planning permission should have been obtained before commencing the applied use at the Premises;
- (c) note DLO/YL, LandsD's comments that the site comprises an Old Scheduled Agricultural 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. The site is accessible from Shek Tin Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the site. The site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA. The STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application 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 the LandsD;
- (d) note C for T's comment that the local access between Kam Sheung Road and the development is not managed by his department;
- (e) note CHE/NTW, HyD's comments that his department does not and will not maintain any access connecting the Premises and Kam Sheung Road. The applicant should be responsible for his own access arrangement. Adequate drainage measures should be provided to prevent surface water running from the Premises to the nearby public roads and drains;
- (f) note DEP's comment that the applicant is advised to properly design and maintain adequate mechanical ventilation and necessary pollution control measures to avoid accumulation of aerial emissions and minimize potential noise and odour nuisances to the public and people living nearby. To minimize noise impact, oily fume and cooking odour emissions from the restaurant, the applicant should make reference to Environmental Protection Department (EPD)'s Pamphlet "Control of Oily Fume and Cooking Odour from Restaurant and Food Business" available from EPD's website. The applicant is also advised to follow the relevant mitigation measures and requirements in the revised "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" to minimize any potential environmental nuisances. All wastewater collected from kitchen, including that from basins, sinks and floor drains, should be discharged via a

grease trap in accordance with the requirements of EPD's Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department". Effluent discharges from the applied use are subject to control under the Water Pollution Control Ordinance (WPCO). A discharge license under the WPCO shall be obtained before a new discharge is commenced;

- (g) note DFEH's comments that proper licence and/or permit issued by FEHD is required if food business or related place of entertainment is involved: (i) the operation of any types of food business, relevant food licence(s) and/or permit(s) should also be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132). If the operator/tenant intends to operate any food business at the premises, relevant food licence/restricted food permit should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132). The application for restaurant licence, if acceptable by FEHD, will be referred to relevant government departments, such as Buildings Department, Fire Services Department, Planning Department for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements; (ii) in accordance with Section 4 of the Food Business Regulation, Cap. 132, a food licence is not required for the operation of any canteen in any work place (other than a factory canteen) for the use exclusively of the persons employed in the work place. However, a restricted food permit(s) granted by FEHD is/are still required for the sale of any restricted foods as specified in Schedule 2 of the said regulation; and (iii) any person who desires to keep or use any place of public entertainment for example a theatre and cinema or a place, building, erection or structure, whether temporary or permanent, on one occasion or more, capable of accommodating the public presenting or carrying on public entertainment within Places of Public Entertainment (PPE) Ordinance (Cap. 172) and its subsidiary legislation, such as a concert, opera, ballet, stage performance or other musical, dramatic or theatrical entertainment, cinematograph or laser projection display or an amusement ride and mechanical device which is designed for amusement. A Place of Public Entertainment Licence (or Temporary Place of Public Entertainment Licence) should be obtained from FEHD whatever the general public is admitted with or without payment. If the proposal involves any commercial/trading activities, its state should not as to be a nuisance or injurious or dangerous to health and surrounding environment. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses. If any FEHD's facility is affected by the development, FEHD's prior consent must be obtained. Reprovisioning of the affected facilities by the project proponent up to the satisfaction of FEHD may be required. Besides, the project proponent should provide sufficient amount of additional recurrent cost for management and maintenance of the reprovisioned facilities to FEHD;
- (h) note CE/MN, DSD's comment that the applicant should provide his own drainage facilities to collect the runoff generated from the Premises or passing through the Premises, and discharge the runoff collected to a proper discharge point. The development should not obstruct overland flow or cause any adverse drainage impact to the adjacent areas and existing drainage facilities. The applicant should consult DLO/YL and seek consent from the relevant owners for any works to be carried out outside his lot boundary before commencement of the drainage works;
- (i) note CBS/NTW, BD's comments that if the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BD, they

are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application. 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. Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with 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) Regulation respectively. If the proposed use under application is subject to issue of license, please be reminded that any existing structures on the site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority. If the site does not abut on a specified street of not less than 4.5 m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage; and

- (j) note D of FS's comments 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 FSIs 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 the BO (Cap. 123) or application for licence for the eating place is required, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans or referral from relevant licensing authority respectively.

