

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 recognised 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 create 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 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 accessing 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 objections from 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 NTEH 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.

**Appendix III of RNTPC
Paper Nos. A/YL-KTN/700 and 701A**

Previous Applications covering the Application Sites

Approved Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
1.	A/YL-KTN/26	Temporary public car park for a period of 3 years	14.3.1997 (approved for 18 months)	(1), (2), (3), (4), (7)
2.	A/YL-KTN/68	Temporary open storage of vehicles for a period of 12 months	18.12.1998 on review	(3), (4), (5), (7)
3.	A/YL-KTN/102	Temporary open storage of vehicles (private cars) and canteen for a period of 3 years	17.12.1999 (approved for 29 months) [revoked on 17.9.2000]	(3), (4), (6), (7)
4.	A/YL-KTN/126	Temporary open storage of vehicles (private cars) and a canteen for a period of 3 years	24.11.2000 [revoked on 24.8.2001]	(3), (4), (6), (7)
5.	A/YL-KTN/145	Temporary public car park for a period of 3 years	10.5.2002	(3), (4), (6), (8)
6.	A/YL-KTN/227	Temporary public car park with ancillary container site office for a period of 3 years	24.6.2005 (approved for 1 year)	(1), (3), (4), (6), (7), (8), (9)
7.	A/YL-KTN/280	Temporary public vehicle park (excluding heavy goods vehicles, container tractors and trailers) for a period of 3 years	14.12.2007 (approved for 1 year) [revoked on 14.3.2008]	(1), (3), (4), (6), (7), (8), (10), (11), (12)
8.	A/YL-KTN/537	Temporary Shop and Services (Real Estate Agency, Pet Salon, Bicycle Sales Store and Convenience Store) for a Period of 3 Years	14.10.2016 [revoked on 14.1.2017]	(4), (6), (7), (8), (11), (12), (13)

Approval Conditions:

- (1) No vehicles without valid licences issued under the Traffic Regulations were allowed to be parked/stored

- (2) The provision of vehicular access at the southern part of the application site along Kam Tin Road
- (3) The submission or/and implementation of landscaping proposals/maintenance of landscape plantings
- (4) The submission or/and provision/maintenance of drainage facilities/ drainage proposal
- (5) The setting back of the south-western boundary of the site to avoid encroaching onto the "Improvement to Kam Tin Road - Stage I" project
- (6) If the planning condition is not complied with during the planning approval period or by the specified date, the approval shall cease to have effect and be revoked without further notice
- (7) Reinstatement of the application upon expiry of the planning permission
- (8) No medium or heavy goods vehicles or container trailers/tractors were allowed to be parked/stored on the application site
- (9) The provision of a 9-litre water type/3kg dry powder fire extinguisher
- (10) No vehicle dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities should be carried out
- (11) Restriction on operation hours
- (12) The submission and implementation of fire service installation proposals
- (13) No reversing of vehicles into or out of the site is allowed

Rejected Application

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC)</u>	<u>Main Reasons for Rejection</u>
1.	A/YL-KTN/309	Temporary Public Vehicle Park (Excluding Container Vehicle) for a Period of 3 Years	19.9.2008	(1), (2)

Rejection Reasons:

- (1) The development was not in line with the planning intention
- (2) There was insufficient information in the submission to demonstrate that the development will not cause any adverse environmental impact on the surrounding areas

**Appendix IV of RNTPC
Paper Nos. A/YL-KTN/700 and 701A**

Similar Applications in the same “V” Zone on Kam Tin North OZP

Approved Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
1.	A/YL-KTN/368	Temporary eating place (outside seating area) for a period of 3 years	16.12.2011	(3), (4), (8)
2.	A/YL-KTN/416	Temporary outside seating area and parking spaces ancillary to restaurant for a period of 3 years	27.9.2013	(1), (2), (3), (4), (5), (6), (8), (9), (10)
3.	A/YL-KTN/497	Temporary outside seating area and parking spaces ancillary to restaurant for a period of 3 years	22.4.2016 [revoked on 22.7.2017]	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
4.	A/YL-KTN/606	Temporary Shop and Services and Eating Place (Outside Seating Accommodation of a Restaurant) with Ancillary Parking Spaces for a Period of 3 Years	15.6.2018	(2), (3), (4), (5), (6), (8), (9), (11), (12)

Approval Conditions:

- (1) No vehicles without valid licences issued under the Traffic Regulations were allowed to be parked/stored
- (2) The submission or/and implementation of landscaping proposals/maintenance of landscape plantings
- (3) The submission or/and provision/maintenance of drainage facilities/ submission of existing drainage facilities
- (4) If the planning condition is not complied with during the planning approval period or by the specified date, the approval shall cease to have effect and be revoked without further notice
- (5) Reinstatement of the application upon expiry of the planning permission
- (6) No medium or heavy goods vehicles or container trailers/tractors were allowed to be parked/stored on the application site
- (7) The provision of boundary fencing
- (8) Restriction on operation hours
- (9) The submission and implementation of fire service installation proposals
- (10) A notice post at a prominent location of the site to indicate that no medium or heavy goods vehicles were allowed at the site.

- (11) No vehicle is allowed to queue back to or reverse onto / from public road
- (12) Submission and implementation of run-in / out proposal

Appendix V of RNTPC
Paper Nos. A/YL-KTN/700 and 701A

Advisory Clauses

- (a) prior planning permission should have been obtained before commencing the applied use at the Site;
- (b) note DLO/YL, LandsD's comments that the Sites comprise Old Scheduled Agricultural Lots 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. Building Licences Nos. 7851 and 7852 were issued to permit erection of one 3-storeys building with roof-over area of 65.03m² for non-industrial purposes to Lot Nos. 216 S.F ss.1 and 216 S.F RP in D.D. 103 respectively and they are the NTEHs governed by Cap. 121. For planning application no. A/YL-KTN/700, the existing structure erected on Lot 216 S.F ss.1 in D.D. 103 are subject to the Building Authority's (BA) order dated 6.8.2019 under section 24(1) of Cap. 123 and the BA has ordered the lot owner of Lot 216 S.F ss.1 in D.D. 103 to demolish two structures erected on and over the lot concerned;
- (c) note CHE/NTW, HyD's comments that Ying Ho Road is not maintained by HyD. His department is not / shall not be responsible for the maintenance of any access connecting the Sites and Kam Tin Road. Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Sites to the nearby public roads or exclusive road drains;
- (d) to note DEP's comments that the applicant should properly design and maintain adequate mechanical ventilation and necessary pollution control measures to avoid accumulation of aerial emissions and minimise 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 applicants should make reference to the EPD's Pamphlet "Control of Oily Fume and Cooking Odour from Restaurant and Food Business" available from EPD's website. The applicants are also advised 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" 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". The applicants are also reminded that effluent discharges from the proposed use are subject to control under the Water Pollution Control Ordinance (WPCO). A discharge licence under the WPCO shall be obtained before a new discharge is commenced;
- (e) to note CBS/NTW, BD's comments that before any new building works (including containers/ open sheds as temporary buildings, demolition and land filling) are to be carried out on the Sites, prior approval and consent of the Buildings Authority should

be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person 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 the prevailing 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 Sites 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. The Sites do not abut on a specified street of not less than 4.5m wide, their permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage. If the proposed use under applications is subject to issue of a license, the applicants should be reminded that any existing structures on the Sites 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;

- (f) note D of FS's comments that in consideration of the design/nature of the proposals, FSIs are anticipated to be required. Therefore, the applicants are 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, and the location of where the proposed FSI to be installed should be clearly marked on the layout plans. The applicants are reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123) or application for licence for OSA 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; and
- (g) note DFEH's comments that proper licence/permit issued by FEHD is required if food business is involved. For the operation of any types of food business, relevant food licences/permits should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132). When a restaurant licensee/licence applicant wishes to use an OSA outside the restaurant premises for alfresco dining, he/she should take notice of the main licensing criteria for OSA, covering matters such as legal right to use the land concerned, planning, building safety, fire safety, and traffic requirements, etc. as well as to obtain approval from the DFEH before commencement. Restaurateurs operating OSA business without approval may be subject to prosecution pursuant to the Food Business Regulation (Cap. 132X). Repeated convictions may lead to suspension or cancellation of their licences. If the proposal involves any commercial/trading activities, there should be no encroachment on the public place and no environmental nuisance should be generated to the surroundings. Its state should not be a nuisance or injurious or dangerous to health and surrounding environment. Also, for any waste generated from the commercial/trading activities, the applicants should handle on their own/at their expenses.