

**Relevant Extract of Town Planning Board Guidelines No. 15A 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)**

The relevant planning criteria for assessing applications include:

- (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 be given if the eating place use 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.

**Relevant Extract of Town Planning Board Guidelines No. 34C on  
“Renewal of Planning Approval and Extension of Time for Compliance  
with Planning Conditions for Temporary Use or Development”  
(TPB- PG No. 34C)**

1. The relevant assessment criteria for assessing applications 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 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 the 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 application 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 appropriate approval period, which may be shorter than the time under request.

**Previous S.16 Applications**

<b>Application No.</b>	<b>Uses/Developments</b>	<b>Date of Consideration</b>	<b>Approved Conditions</b>
A/NE-SSH/89	Temporary Eating Place (Outside Seating Accommodation of a Restaurant) for a Period of 5 Years	13.6.2014	A1 – A6
A/NE-SSH/107	Temporary Eating Place (Outside Seating Accommodation of a Restaurant) for a Period of 3 Years	28.7.2017	A1, A4 – A8

**Approval Conditions**

- A1 No operation between the specified time, as proposed by the applicant
- A2 The submission and implementation of landscape and tree preservation proposals
- A3 The submission and implementation of a drainage proposal
- A4 The submission and implementation of water supplies for firefighting and fire service installations proposal
- A5 Revocation clause
- A6 Reinstatement clause
- A7 Maintenance of existing trees and landscape planting on the application site
- A8 Maintenance of the drainage facilities on the application site

**Recommended Advisory Clauses**

- (a) to note the comments of District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) that:
- (i) as the private lots are held under Block Government Lease demised for agricultural purpose, no structure is allowed to be erected on the Site without prior approval from LandsD. There are also two pieces of the Government Land, neither occupation nor works of any kind thereon is allowed without prior approval from LandsD;
  - (ii) applications for Short Term Waiver (STW) and Short Term Tenancy (STT) concerning existing structures have been submitted to LandsD. Should the Board approve this application, LandsD will continue to process the STW and STT applications. However, there is no guarantee that such approval for the STW and STT will eventually be given by LandsD. If the STW and STT applications are approved, it will be subject to relevant conditions to be imposed and the relevant charges of fees/deposit/etc. Alternatively, the owners are required to purge the irregularity. Otherwise, lease enforcement action would be taken by LandsD; and
  - (iii) there is no guarantee of right of way to the Site or approval of the emergency vehicular access thereto;
- (b) to note the comments of the Director of Environmental Protection (DEP) that:
- (i) the applicant is reminded to observe and adopt the pollution abatement measures outlined in the General Environmental Guidelines for Outside Seating Accommodation; and
  - (ii) the applicant should have a proper planning and good house-keeping for noisy machines/equipment (such as locating the machine/equipment away from Noise Sensitive Receives (NSRs), use of quiet machine, adopting noise mitigation/silencing measures) to avoid noise nuisances to nearby residents;
- (c) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) that approval of the application does not imply approval of tree works such as pruning, transplanting and felling under lease. Tree removal applications should be submitted direct to LandsD for approval;
- (d) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that:

- (i) if any existing structures are erected on leased land without approval of the Buildings Department (BD) (not being an NTEH), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application;
  - (ii) 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 Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
  - (iii) for UBW erected on leased land, enforcement action may be taken by the BD to affect 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;
  - (iv) if the proposed use under the application is subject to the issue of a licence, the applicant should be reminded that any 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;
  - (v) in connection with (ii) above, the Site shall be provided with the means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulation 5 and 41D of the Building (Planning) Regulations respectively; and
  - (vi) if the Site does not abut on a specific street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulations at the building plan submission stage;
- (e) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that:
- (i) the applicant is required to either divert or protect the water mains found on site;
  - (ii) if diversion is required, existing water mains within the Site are needed to be diverted outside the site boundary of the proposed development to lie in Government land. A strip of land of minimum 1.5 metres in width should be provided for the diversion of the existing water main(s). The cost of diversion of existing water main(s) upon request will have to borne by the applicant; and the applicant shall submit all the relevant proposal to WSD for consideration and agreement before the works commence.
  - (iii) if diversion is not required, the applicant should be advised that:
    - (1) existing water main(s) at the Site are affected and no development which requires resiting of water main(s) will be allowed;

- (2) details of site formation works shall be submitted to WSD for approval prior to commencement of works;
  - (3) no structures shall be built or materials stored within 1.5 metres from the central line(s) of water main(s). Free access shall be made available at all times for WSD's staff or his contractor to carry out construction, inspection, operation, maintenance and repair works;
  - (4) no trees or shrubs with penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water main(s). No change of existing site condition may be undertaken within the aforesaid area without the prior agreement of WSD. Rigid root barriers may be required if the clear distance between the proposed tree and the pipe is 2.5 metres or less, and the barrier must extend below the invert level of the pipe;
  - (5) no planting or obstruction of any kind except turfing shall be permitted within the space of 1.5 metres around the cover of any valve or within a distance of 1 metre from any hydrant outlet; and
  - (6) tree planting may be prohibited in the event that there is any likelihood of damage being caused to water main(s);
- (f) to note the comments of the Director of Food and Environmental Hygiene that:
- (i) the operation of the OSA of a restaurant must not cause any environmental nuisance or obstruction to the surrounding, and the applicant/licensee of the OSA should continue to observe the licensing conditions of OSA at all times; and
  - (ii) the refuse generated by the proposed OSA are regarded as trade refuse. The applicant /licensee of the OSA is responsible for its removal and disposal at their expenses.