

**Relevant extracts of the 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)**

1. Scope and Application of the Guidelines

- 1.1 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.
- 1.2 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.
- 1.3 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.
- 1.4 These Guidelines set out the planning criteria for assessing planning applications for eating place use in the "V" zone in the rural areas.

2. Definition of New Territories Exempted House (NTEH)

"NTEH" is defined in the Covering Notes in rural outline zoning plans.

3. Requirement for Planning Permission

Eating place use on the ground floor of a NTEH within the "V" zone does not require planning permission. However, such use on other floors of a NTEH, on open ground as an extension to a ground floor eating place in a NTEH, or as a free-standing development within the "V" zone requires planning permission from the Board.

4. Main Planning Criteria

- 4.1 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.
- 4.2 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.
- 4.3 Sympathetic consideration may also be given to any application which would not have adverse impacts on drainage, sewage disposal facilities or fire safety aspects.
- 4.4 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.
- 4.5 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.
- 4.6 All other statutory or non-statutory requirements of relevant Government departments should be met.

Previous Applications Covering the Application Site

Approved Application

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
1	A/YL-TT/273#	Proposed house and minor relaxation of building height restriction	17.6.2011 [extended by 48 months and will expire on 17.6.2019]	(1), (2), (3), (4)
2	A/YL-TT/399	Proposed Temporary Eating Place (Restaurant) for a Period of 3 Years	17.3.2017 [revoked on 17.9.2017]	(4), (5), (6)

The site partly falls within the “R(D)” zone and partly falls within the adjacent “Village Type Development” (“V”) zone.

Approval Conditions

- (1) Submission and implementation of vehicular access arrangement proposal.
- (2) Submission and implementation of drainage proposal.
- (3) Submission and implementation of tree preservation and landscape proposals.
- (4) Submission and implementation of water supplies for fire fighting and fire service installations proposals.
- (5) No night time operation.
- (6) Revocation Clause.

Advisory Clauses

- (a) to resolve any land issues relating to the development with the concerned owner(s) of the application site (the Site);
- (b) to note the comments of the District Lands Officer/Yuen Long, Lands Department (LandsD) that the Site falls within Lot No. 5288 in D.D. 116, which is held under New Grant No. 2309 and the subject lot is restricted for private residential purposes, the building(s) erected or to be erected shall not exceed 2 storeys and 25ft (i.e. about 7.62m) above the mean formation of the land and the maximum built-over area is 1,600ft² (i.e. about 148.6m²). As a strip of the eastern portion of the subject lot has been excluded from the Site, the actual site area and boundary of the private lot involved will be subject to verification at the later stage if the applicant submits application for variation of lease conditions for implementation of the proposal. The proposed temporary eating place (restaurant) and its proposed height as well as total covered area do not comply with the lease conditions. If planning approval is given, the grantee has to apply to her department for variation of lease conditions to permit the proposed use. Such application, if received, will be considered by her department acting in the capacity as the landlord at its sole discretion. There is no guarantee that such application will be approved. In the event any such application is approved, it would be subject to such terms and conditions including, among others, the payment of fee/premium and administrative fee as may be imposed by her department. Notwithstanding the proposed use to be a 5-year temporary use, it is noted that a proposed 1-storey structure "B2" would be erected at the northern part of the Site which falls within "Village Type Development" ("V") zone. Land within "V" zone or village environ is primarily reserved for development of New Territories Exempted House (NTEH) by Indigenous Villagers under the NT Small House Policy. Hence, non-NTEH land variation application would not normally be entertained within "V" zones or defined village environs even if planning permission is given by the Board;
- (c) to note the comments of the Commissioner for Transport that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking of vehicles on public road are allowed;
- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that adequate drainage measures should be provided at the site access to prevent surface water flowing from the Premises to nearby public roads/drains. His Department shall not be responsible for the maintenance of any access connecting the Site and Tai Tong Road;
- (e) to note the comments of the Director of Environmental Protection 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 to minimise any potential environmental nuisance;
- (f) to note the comments of the Director of Fire Services that in consideration of the design/nature of the proposal, fire service installations (FSIs) are anticipated to be required. The applicant is advised to submit relevant layout plans incorporated with the proposed

FSIs to his department for approval. The applicant is advised that 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 also be clearly marked on the layout plans. However, if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans;

(g) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) that he only has record on the existing building B1 as indicated in the application. With regard to other existing buildings i.e. B2 & B3 as indicated in the application, he has no record of approval by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application. Based on the submitted information, if the existing structures (not being a NTEH) are erected on leased land without the approval of BD, they are unauthorised building works (UBW) under the BO and should not be designated for any proposed use under the subject application. 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 building works or UBW on the Site under the BO. Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorised Person should be appointed as the coordinator 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 (B(P)R) respectively. Presumably, the Site is abutting on a specified street of not less than 4.5m wide, then the development intensity shall not exceed the permissible figures under the 1st schedule of the (B(P)R). The proposed use under application is subject to the issue of a licence, the applicant should 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 licencing authority. The provision of barrier free access and accessible toilet required under Regulation 72 of the B(P)R for the proposed use should be complied with. The numbers of sanitary fitments required should comply with Chapter 123I Building (Standards of sanitary fitments, plumbing, drainage works and latrines) Regulations; and

(h) to note the comments of the Director of Food and Environmental Hygiene that no Food and Environmental Hygiene Department's facilities will be affected and such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding. For any waste generated from the commercial/trading activities, the applicant should arrange its disposal properly at his own expenses. Proper licence/permit issued by his department is required if there is any catering service/activities regulated by him under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public. If the operator/tenant intends to operate any food business at the premises, relevant food licence/restricted food permit should be obtained from his department in accordance with Cap. 132. The application for restaurant licence with OSA, if acceptable by his department, will be referred to relevant government departments, such as BD, Fire Services Department, Planning Department, Transport Department, Home Affairs Department and LandsD 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. 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 his department is/are still required for the sale of any restricted foods as specified in Schedule 2 of the said regulation.