

**Relevant extracts of 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)**

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. Main Planning Criteria
 - 2.1 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.
 - 2.2 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.
 - 2.3 Sympathetic consideration may also be given to any application which would not have adverse impacts on drainage, sewage disposal facilities or fire safety aspects.
 - 2.4 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.
 - 2.5 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.

- 2.6 All other statutory or non-statutory requirements of relevant Government departments should be met.

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

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

	Application No.	Proposed Use(s)/ Development(s)	Date of Consideration (RNTPC)	Approval Condition(s)
1	A/YL-TT/282	Temporary Canteen for a Period of 3 Years	15.4.2011	(1) to (6)
2	A/YL-TT/335	Temporary Canteen for a Period of 3 Years	8.8.2014	(1) to (8)
3	A/YL-TT/407	Renewal of Planning Approval for Temporary Canteen for a Period of 3 Years	28.7.2017	(1), (5), (7) to (11)

Approval Condition(s):

- (1) No night-time operation.
- (2) Submission of proposal and provision of run-in/out.
- (3) Submission and implementation of (revised) tree presentation and landscape proposals.
- (4) Submission and/or implementation of drainage proposal and/or provision of drainage facilities.
- (5) Submission and implementation of fire services installations proposal.
- (6) Revocation of planning approval if conditions not complied with by a given date/at any time during the approval period.
- (7) No queuing and reverse movement of vehicle are allowed on public road.
- (8) Reinstatement clause.
- (9) Maintain existing drainage facilities on the site.
- (10) Submission of a record of existing facilities on the site.
- (11) Submission and implementation of tree presentation proposal.

Similar Applications within or straddling the Subject “V” Zone on the OZP

Approved Applications

	Application No.	Proposed Use(s)/ Development(s)	Date of Consideration (RNTPC)	Approval Condition(s)
1	A/YL-TT/114	Proposed Restaurant	17.8.2001 (on a temporary basis for 2 years)	(1), (2), (3), (4)
2	A/YL-TT/149	Temporary Restaurant for a Period of 3 Years	10.10.2003 (revoked on 10.11.2004)	(4), (5), (6), (7)
3	A/YL-TT/192	Temporary Restaurant for a Period of 3 Years	3.2.2006 (revoked on 3.2.2008)	(1), (4), (5), (6), (9)
4	A/YL-TT/249	Temporary Eating Place for a Period of 3 Years	6.11.2009 (revoked on 6.8.2010)	(4), (5), (6), (7), (8), (10), (11)
5	A/YL-TT/272	Temporary Eating Place for a Period of 3 Years	10.12.2010 (revoked on 10.2.2013)	(2), (3), (4), (7), (10)
6	A/YL-TT/321	Temporary Eating Place for a Period of 3 Years	23.5.2014	(2), (3), (4), (7), (10), (12)
7	A/YL-TT/324*	Temporary Eating Place with Ancillary Storage for a Period of 3 Years	25.4.2014	(2), (3), (4), (7), (10), (12)
8	A/YL-TT/403	Temporary Eating Place (Outside Seating Accommodation of a Restaurant) for a Period of 3 Years	11.8.2017	(2), (3), (4), (6), (7), (10), (12), (13), (14)

* Also straddles the adjoining “Open Storage” zone on the OZP.

Approval Condition(s):

- (1) Provision of vehicular access.
- (2) Submission and implementation of tree preservation and/or landscape proposals.
- (3) Submission of proposal and/or provision of drainage facilities.
- (4) Revocation of planning approval if conditions not complied with by a given date/at any time during the approval period.
- (5) Maintenance of the existing trees and/or landscape planting on the site.
- (6) Maintenance of the drainage facilities on the site.
- (7) Submission and implementation of fire service installations (FSIs) proposals.
- (8) Submission of proposal and/or provision of run in/out.
- (9) Provision of emergency vehicular access, water supplies for fire fighting and FSIs.
- (10) No night-time operation.
- (11) No medium or heavy vehicles or container vehicles are allowed for the operation of the site.
- (12) No queuing and reverse movement of vehicle are allowed on public road.
- (13) Provision of car parking spaces and loading/unloading facilities on the site.
- (14) Reinstatement clause.

Rejected Applications

	Application No.	Proposed Use(s)/ Development(s)	Date of Consideration (RNTPC/TPB)	Approval Condition(s)
1	A/YL-TT/280	Temporary Eating Place for a Period of 3 Years	14.9.2012 on review	(1), (2)
2	A/YL-TT/366	Temporary Eating Place for a Period of 3 Years	4.12.2015	(3), (4), (5)
3	A/YL-TT/379	Proposed Temporary Eating Place (Outside Seating Accommodation of a Restaurant) for a Period of 3 Years	10.6.2016	(4), (5)

Rejection Reason(s):

- (1) Previous planning permissions granted under Applications No. A/YL-TT/149, 192 and 249 were revoked due to non-compliance with approval conditions on fire safety aspect, and the applicant failed to demonstrate to the Board that she would comply with approval conditions imposed by the Town Planning Board.
- (2) Due to the failure in complying with approval conditions on fire service installations, the potential fire risk from the eating place could not be adequately addressed. The application therefore did not meet the Town Planning Board Guidelines for Application for Eating Place within “V” Zone in Rural Areas under Section 16 of the Town Planning Ordinance (TPB PG-No.15A).
- (3) The planning intention of the “V” zone is to designate both existing recognised villagers and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.
- (4) The applicant fails to demonstrate that the development would not cause adverse traffic, drainage and fire safety impacts on the surrounding area.
- (5) Approval of the application with repeated non-compliance with approval conditions would set an undesirable precedent for other similar applications, thus nullifying the statutory planning control mechanism.

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 (DLO/YL, LandsD) that the Site comprises government land (GL) and Old Schedule 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. Within the Site, the GL and Lots 1187 S.O, 1187 S.Q and 1187 S.R in D.D. 117 are currently covered by Short Term Tenancy (STT) No. 2976 and Short Term Waiver (STW) No. 4512 respectively to permit structures erected thereon for the purpose of “Temporary Canteen”. The STW/STT holder(s) will need to apply to her office for modification of the STW/STT conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by her department acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by her department;
- (c) to note the comments of the Commissioner for Transport that the management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly. Sufficient space should be provided within the Site for manoeuvring of vehicles. No parking of vehicles on public roads 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 Site to the nearby public roads/drains. His department shall not be responsible for the maintenance of any access connecting the Site and Tai Tong Shan Road;
- (e) to note the comments of the Director of Food and Environmental Hygiene that in accordance with Section 4 of Food Business Regulation (the Regulation), “food business” means any trade or business for the purpose of which any person engages in the handling of food or food is sold by means of a vending machine. It does not include any canteen in work place (other than a factory canteen referred to in section 31 of the Regulation) for the use exclusively of the persons employed in the work place. As such, a staff canteen that is exclusively used by the staff members of that working place does not require a food business licence from his department. Neither application nor approved case for food licence has been received by his department. However, if the said canteen provided foods to the outsiders with payment, a food business licence is required. If the operator intends to operate a restaurant business in the territory, a general restaurant/light refreshment restaurant licence should be obtained from his department in accordance with the Public Health and Municipal Services Ordinance (Cap. 132). The application for restaurant licence, if acceptable by his department, will be referred to relevant government departments, such as Buildings Department (BD), Fire Services Department, Planning Department (PlanD) and LandsD (if necessary) 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. His department’s facilities should not be affected and the operation of the eating place shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding. The

refuses generated by the proposed eating place are regarded as trade refuse. The management or owner of the Site is responsible for its removal and disposal at their expenses. The operation of any business should not cause any obstruction or environmental nuisance in the vicinity as well;

- (f) to note the comments of the Director of Environmental Protection that the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storages Sites” issued by the Environmental Protection Department should be followed to minimise any potential environmental nuisances;
- (g) to note the comments of the Chief Town Planner/Urban Design and Landscape, PlanD that some trees were observed in poor health condition/dead (decay is noted on the lower tree trunk of T1, and a tree with loss of crown is trapped within a temporary structure at the northern boundary). Remedial measures, such as close monitoring, tree removal or tree replacement should be undertaken as appropriate. A dead tree is found at the northern boundary behind the large temporary structure. The concerned tree should be removed as soon as possible to minimise tree risk. The planting area of T4 is covered by debris and miscellaneous objects. No storage of materials within 1m of any trees should be observed to prevent damage to the trees. It is important to undertake proper tree care for existing trees within the Site. Useful information published by the Greening, Landscape & Tree Management Section, Development Bureau on general tree maintenance and tree risk management is available from their website, including ‘Pictorial Guide for Tree Maintenance’, ‘Minimising Tree Risks’ and ‘Pictorial Guide for Tree Maintenance to Reduce Tree Risks’. This approval does not imply approval of the tree works such as pruning, transplanting and/or felling under lease. Relevant authority / government department(s) should be approached direct to obtain the necessary approval on tree works;
- (h) to note the comments of the Director of Fire Services that in consideration of the design/nature of the proposal, fire services installations (FSIs) are anticipated to be required. Relevant layout plans incorporated with the proposed FSIs should be submitted 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 FSIs to be installed should be clearly marked on the layout plans. 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; and
- (i) to note the comments of the Chief Building Surveyor/New Territories West, BD that if the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorised building works (UBW) under the 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 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 co-ordinator for the proposed building works in accordance with the BO. If the proposed use under application is subject to the issue of a license, the applicant is 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. 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) Regulations (B(P)R) respectively. If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.