

**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.

Appendix III of RNTPC  
Paper No. A/YL-KTN/606

Previous Applications covering the Application Site

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 (approved for 12 months)	(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 (approved for 3 years) [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 (approved for 3 years)	(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/334	Temporary open storage of vehicles (medium goods vehicle) for a period of 3 years	5.2.2010 on review (approved for 1 year)	(3), (4), (6), (7), (8), (10), (11)
9	A/YL-KTN/368	Temporary Eating Place (Outside Seating Area) for a Period of 3 Years	16.12.2011 (approved for 3 years)	(4), (6), (11)

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
10	A/YL-KTN/372	Proposed shop and services (retail shop)	24.2.2012 (approved for 3 years) [revoked on 24.11.2012]	(4), (6), (7), (11), (12)
11	A/YL-KTN/408	Proposed shop and services (real estate agency and convenience store) for a period of 3 years	2.8.2013 (approved for 3 years)	(4), (6), (7), (11), (12)
12	A/YL-KTN/411	Temporary vehicle park (private cars) for a period of 3 years	16.8.2013 (approved for 3 years)	(1), (6), (7), (8), (10), (14)
13	A/YL-KTN/412	Proposed Temporary Vehicle Park (Private Cars) for a Period of 3 Years	16.8.2013 (approved for 3 years)	(1), (6), (7), (8), (10), (14)
14	A/YL-KTN/416	Temporary outside seating area with parking spaces ancillary to restaurant for a period of 3 years	27.9.2013 (approved for 3 years)	(1), (3), (4), (6), (7), (8), (11), (12), (14)
15	A/YL-KTN/497	Temporary Outside Seating Area and Parking Spaces Ancillary to Restaurant for a Period of 3 Years	22.4.2016 (approved for 3 years) [revoked on 22.7.2017]	(1), (3), (4), (6), (7), (8), (11), (12), (14), (15)
16	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 (approved for 3 years) [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/ submission of existing drainage facilities
- (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
  - (14) a notice post at a prominent location of the site to indicate that no medium or heavy goods vehicles were allowed at the site
  - (15) the provision of a boundary fence for the site

### Rejected Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC)</u>	<u>Main Reasons for Rejection</u>
1.	A/YL-KTN/4	Temporary open storage of construction excavators and left hand drive car for a period of 12 months	5.5.1995	(1), (2), (3), (4), (5), (6)
2	A/YL-KTN/309	Temporary Public Vehicle Park (Excluding Container Vehicle) for a Period of 3 Years	19.9.2008	(1), (3)
3	A/YL-KTN/315	Temporary open storage of vehicles for sale for a period of 1 year	9.1.2009	(1), (3), (6), (7)

### Rejection Reasons:

- (1) The development was not in line with the planning intention
- (2) The development was not compatible with the nearby residential developments
- (3) There was insufficient information in the submission to demonstrate that the development will not cause any adverse environmental impact on the surrounding areas
- (4) The application site was susceptible to flooding but no drainage proposal have been included in the submission
- (5) There was no information in the submission on landscape treatment
- (6) The approval of the application would set an undesirable precedent
- (7) The development did not comply with TPB PG-No. 13E in that the development was no compatible with the residential dwellings in the vicinity and there were adverse departmental comments.



Similar Applications in the same “Residential (Group B)” Zone on the Kam Tin North OZP

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Condition(s)</u>
1	A/YL-KTN/457	Proposed Eating Place	16.1.2015	(1), (2)
2	A/YL-KTN/526	Proposed Eating Place and Shop and Services	15.7.2016	(1), (2)
3	A/YL-KTN/574	Proposed Temporary Shop and Services (Wheelchair Accessible Vehicles Showroom) for a Period of 3 Years	22.9.2018	(2), (3), (4), (5), (6), (7), (8), (9)

Approval Conditions:

- (1) the design and provision of water supply for fire fighting and fire service installations
- (2) revocation of planning approval for non-compliance with conditions by a specified date or during the planning approval period
- (3) restricting operation hours
- (4) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on the Site
- (5) no medium and heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site
- (6) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period
- (7) submission and implementation of drainage proposal
- (8) submission and provision of a fire service installations proposal
- (9) upon expiry of the planning permission, the reinstatement of the application site to an amenity area





Advisory Clauses

- (a) should the applicant fail to comply with the approval conditions resulting in the revocation of the planning permission, sympathetic consideration may not be given by the Committee to any further application;
- (b) prior planning permission should have been obtained before commencing the applied use at the Site;
- (c) resolve any land issues relating to the development with the concerned owner of the site;
- (d) note DLO/YL, LandsD's comments 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. No permission is given for the occupation of GL not covered by STT No. 3032 and STT 3041 ("the remaining GL") (about 486.7m<sup>2</sup> subject to verification) included in the Site (about 743.7m<sup>2</sup>). Any occupation of GL without Government's prior approval is not allowed. The Site is accessible from Ying Ho Road to Kam Tin Road via GL. 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 and STT holder(s) will need to apply to his office for modification of the STW/STT conditions if there is any irregularities on site. The owner(s) of the lot without STW will need to apply to his office to permit the structures to be erected or regularise any irregularities on site. Furthermore, the applicant has to either exclude the remaining GL portion from the Site or apply for a formal approval prior to the actual occupation of the GL portion without STT. Such application(s) will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) 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;
- (e) note C for T's comments that the Site is connected to the public road network via a section of a local access road which may not be managed by the Transport Department. The land status of the local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly;
- (f) note CHE/NTW, HyD's comments that his department is not and shall not be responsible for the maintenance of Ying Ho Road. Adequate drainage measures

should be provided to prevent surface water running from the Site to the nearby public roads and drains;

- (g) note CE/C, WSD's comments that waterworks Reserve of the water main shown on Plan A-2 of the RNTPC paper shall be provided to WSD. No structure shall be erected over this Waterworks Reserve and such area shall not be used for storage purposes. The Water Authority and his officers and contractors, his or their workmen shall have free access at all times to the said area with necessary plant and vehicles for the purpose of laying, repairing and maintenance of water mains. All other services across, through or under the Waterworks Reserve are required to seek authorization from the Water Authority. Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site;
- (h) follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Open Storage and Temporary Uses" issued by the DEP;
- (i) to note CBS/NTW, BD's comments that 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 unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO). If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are 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 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. 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;
- (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, and the location of where the proposed FSI 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 Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans; and

- (k) note DFEH's comments that no Food and Environmental Hygiene Department's (FEHD) 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 her own expenses. Proper licence / permit issued by FEHD is required if there is any catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public. Whenever the restaurant licensees who wish to include an OSA into their licensed premises, they are required to submit application to FEHD by filling in the application form together with 8 copies of proposed layout cum OSA plan and 5 copies of 1:1000 location map for approval. If the application of OSA is acceptable for further processing, FEHD will refer it to the relevant departments including such as Buildings Department, Transport Department, Fire Services Department, Planning Department, Home Affairs Department, Lands Department for clearance. A Letter of Requirements on the proposal would be issued if no objection was raised by the Departments concerned.

