

**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 No. A/YL-KTN/736**

Previous Applications Covering the Site

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Rejection 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/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	(4), (6), (11)
10	A/YL-KTN/372	Proposed shop and services (retail shop) for a Period of 3 years	24.2.2012 [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	(4), (6), (7), (11), (12)
12	A/YL-KTN/411	Temporary vehicle park (private cars) for a period of 3 years	16.8.2013	(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	(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	(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 [revoked on 22.7.2017]	(1), (3), (4), (6), (7), (8), (11), (12), (14), (15)

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Rejection Conditions</u>
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 [revoked on 14.1.2017]	(4), (6), (7), (8), (11), (12), (13)
17	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	(3), (4), (6), (8), (11), (12), (13), (16)

Approval Conditions:

- (1) No vehicles without valid licenses 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 1" 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
- (16) The submission and implementation of run-in/out proposal

Rejected Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Rejection Conditions</u>
1	A/YL-KTN/4	Temporary Open Storage or 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 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 has 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 not compatible with the residential dwellings in the vicinity and there were adverse departmental comments.

Similar Applications within the same “V” zone on the
 Kam Tin North OZP

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition (s)</u>
1	A/YL-KTN/700	Temporary Eating Place (Outside Seating Accommodation) for a Period of 3 Years	15.5.2020	(1), (2), (3), (4)
2	A/YL-KTN/701	Temporary Eating Place (Outside Seating Accommodation) for a Period of 3 Years	15.5.2020	(1), (2), (3), (4)
3	A/YL-KTN/702	Temporary Eating Place (Outside Seating Accommodation) for a Period of 3 Years	21.8.2020	(1), (2), (3), (4)
4	A/YL-KTN/703	Temporary Eating Place (Outside Seating Accommodation) for a Period of 3 Years	21.8.2020	(1), (2), (3), (4)
5	A/YL-KTN/574	Renewal of Temporary Shop and Services (Wheelchair Accessible Vehicles Showroom) for a Period of 3 Years	22.9.2017	(1), (2), (3), (4), (5), (6), (7)
6	A/YL-KTN/718	Temporary Shops and Services (Wheelchair Accessible Vehicles Showroom) for a period of 3 Years	15.9.2020	(1), (2), (3), (4), (5), (6)

Approval conditions

- (1) The submission or/and provision/maintenance of drainage facilities/ submission of a record of existing drainage facilities
- (2) 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
- (3) Restriction on operation hours
- (4) The submission and implementation of fire service installation proposals
- (5) No medium or heavy goods vehicles or container trailers/tractors were allowed to be parked/stored on the application site
- (6) No vehicle is allowed to queue back to or reverse onto / from public road
- (7) No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on the Site at any times

**Similar Applications within the same “R(B)” zone on the
Kam Tin North OZP**

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition (s)</u>
1	A/YL-KTN/457	Proposed Eating Place	16.1.2015	(1)
2	A/YL-KTN/526	Proposed Eating Place and Shop and Services	15.7.2016	(1), (2)

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 specified date or during the planning approval period

Advisory Clauses

- (a) 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 occupation of the GL not covered by STT No. 3032 and STT 3041 ("the remaining GL") (about 404m² subject to verification) included in the Site (about 741m²). Any occupation of GL without Government's prior approval is not allowed. The STW/STT holder(s) will need to apply to his office for modification of the STW/STT conditions where appropriate. The owner(s) of the lot(s) without STW will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. 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. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above 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 rent or fee, as may be imposed by the LandsD;
- (b) 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;
- (c) note CHE/NTW, HyD's comments that Ying Ho Road is not maintained by his department. His department shall not be responsible for the maintenance of any access connecting the Site and Kam Tin Road. The physical barriers proposed by the applicant shall not be maintained by his department. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (d) note DEP's comments that the applicant is advised to properly design and maintain adequate mechanical ventilation and necessary pollution control measures to avoid accumulation of aerial emissions and minimize 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 applicant should make reference to the Environmental Protection Department (EPD)'s Pamphlet "Control of Oily Fume and Cooking Odour from Restaurant and Food Business" available from EPD's website. The applicant is 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. 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. If septic tank and soakaway system is proposed, its design and construction should follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” including percolation test.

- (e) 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 or referral from relevant licensing authority respectively;
- (f) 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;
- (g) to note CBS/NTW, BD’s comments that if the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the Building Authority (BA), they are unauthorized building works (UBW) under the Buildings Ordinance (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 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. Before any new building works (including containers/ open sheds as temporary buildings demolition and land filling, etc.) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator 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) Regulations (B(P)R) respectively. The Site does not abut on a specified street of not less than

4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage. Any temporary shelters or converted containers for office, storage, washroom or other uses are considered as temporary buildings are subject to the control of Part VII of the B(P)R. If the proposed use under application is subject to issue of a license, 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 licensing authority. Detailed checking under the BO will be carried out at building plan submission stage; and

- (h) note DFEH's comments that proper licence / permit issued by his department is required if food business and/or related place of public entertainment activity is involved. For the operation of any types of food business, relevant food licences / permits should also be obtained from Food and Environmental Hygiene Department FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132). When a restaurant licensee/licence applicant wishes to use any outside seating accommodation (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 applicant should handle on their own/at their expenses.

