

**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 s.16 Applications covering the Application Site

Approved Application

	<u>Application No.</u>	<u>Zoning(s) and OZP at the time of consideration</u>	<u>Proposed Use/Development</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
1.	A/HSK/167	“O” and “V” on approved Hung Shiu Kiu OZP No. S/HSK/2	Proposed Temporary Eating Place (Canteen) (3 Years)	2.8.2019	(1) to (7)

Approval Conditions:

- (1) No vehicle is allowed to queue back to or reverse onto/from the public road at any times during the planning approval period.
- (2) Submission of drainage proposal.
- (3) Implementation of the drainage proposal.
- (4) The implemented drainage facilities shall be maintained at all times during the planning approval period.
- (5) Submission of fire service installations (FSIs) proposal.
- (6) Implementation of FSIs proposal.
- (7) Revocation clause.

Rejected Application

	<u>Application No.</u>	<u>Zoning(s) and OZP at the time of consideration</u>	<u>Proposed Use/Development</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Reason(s) for Rejection</u>
1.	A/YL-HT/1034	“R(D)” and “V” on approved Ha Tsuen OZP No. S/YL-HT/10	Temporary Open Storage of Metal Ware (3 Years)	15.7.2016	(1) to (4)

Reasons for Rejection:

- (1) The development was not in line with the planning intention of the “R(D) and “V” zones. There was no strong justification in the submission to merit a departure, even on a temporary basis.
- (2) There were adverse departmental comments and local objections.
- (3) There was insufficient information in the submission to demonstrate that the development would not generate adverse traffic, drainage, landscape and environmental impacts.
- (4) Approval of this application would set an undesirable precedent for other developments in the area, the cumulative effect of which would result in a general degradation of the environment of the “R(D)” and “V” zones.

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 Old Scheduled Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government. The private lot No. 67(Portion) in D.D.124 is currently covered by Short Term Waiver (STW) No. 1962 for storage and repair of container boxes. According to his record, there is no lease modification/land exchange application or building plan submission in relation to commercial development at the Site approved/under processing. The lot owner(s) of the lot(s) without STW will need to apply to his office for permitting the structures to be erected or regularize any irregularities on site, if any. The STW holder will need to apply to his office for modification of the STW conditions where appropriate. 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 of the landlord or lessor at its sole discretion and here 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 LandsD.
- (c) to note the comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) that sufficient manoeuvring spaces shall be provided within the Site. The local track leading to the Site is not under TD's purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site;
- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drain. His department shall not be responsible for maintenance of any access connecting the Site and Tin Ha Road;
- (e) to follow the relevant mitigation measures and requirements in the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Environmental Protection Department to minimize any potential environmental nuisances;
- (f) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that the applicant should submit a drainage proposal including to demonstrate how the existing watercourse within the Site would not be affected by the proposed development;
- (g) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that there is no record of approval by the Building Authority (BA) for the existing structures at the Site. If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the 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 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, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized 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) 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. If the proposed use under application is subject to the issue of a licence, the applicant should be reminded that any existing structures on the application 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; and

- (h) to note the comments of the Director of Fire Services (D of FS) that in consideration of the design/nature of the structures, fire service installations (FSIs) are anticipated to be required. Therefore, the applicant should submit relevant layout plans incorporated with the proposed FSIs to him for approval. 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 be clearly marked on the layout plans. If the proposed structure(s) is required to comply with the BO or relevant licensing requirements, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.