

**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 Application covering the Application Site

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration (RNTPC/TPB/TPAB)</u>	<u>Approval Conditions</u>
1	A/YL-TT/384	Proposed Temporary Shop and Services (Local Provision Store with Ancillary Storage Area and Real Estate Agency) for a Period of 3 Years	29.7.2016	(1), (2), (3), (4), (5), (6), (7)

Approval Condition(s):

- (1) No night-time operation during specific time limit is allowed on the site.
- (2) Submission and/or implementation of landscaping and/or tree preservation proposal.
- (3) Submission of (revised) drainage proposal and/or provision/implementation of drainage proposal/facilities.
- (4) Maintenance of the implemented drainage facilities at all times.
- (5) No vehicle to be parked/stored on or enter/exit the site.
- (6) Revocation of planning approval for non-compliance with conditions by a specified date/at any time during the approval period.
- (7) Reinstatement of the application site upon expiry of planning permission.

Similar Applications within the Same “V” Zone on the OZP

Approved Applications

	<u>Application No.</u>	<u>Proposed Use/Development</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
1	A/YL-TT/289	Tempoary Shop and Services (Real Estate Agency) for a Period of 3 Years	19.8.2011 [revoked on 19.2.2012]	(1), (2), (3), (4), (5), (6), (7)
2	A/YL-TT/301	Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	20.4.2012 [revoked on 20.7.2014]	(1), (2), (3), (4), (5), (6), (7) (8)
3	A/YL-TT/302	Tempoary Shop and Services (Real Estate Agency) for a Period of 3 Years	20.4.2012 [revoked on 20.10.2013]	(1), (2), (3), (4), (5), (6), (7), (8)
4	A/YL-TT/327	Tempoary Shop and Services (Real Estate Agency) for a Period of 3 Years	22.12.2015 (allowed on appeal for 12 months) [revoked on 22.3.2016]	(1), (2), (3), (4), (5), (6), (7), (8), (10), (11), (12), (13)
5	A/YL-TT/343	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	16.1.2015	(1), (2), (3), (4), (5), (6), (7), (8), (9), (11), (12), (13)
6	A/YL-TT/418	Renewal of Planning Approval for Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	12.1.2018	(1), (5), (6), (7), (9), (10), (12), (13)

Approval Condition(s):

- (1) No night-time operation during specific time limit is allowed on the site.
- (2) Submission and/or implementation of (accepted) run-in/out proposal.
- (3) Submission and/or implementation of landscaping and tree preservation proposal.
- (4) Submission of (revised) drainage proposal and/or provision/implementation of drainage proposal/facilities.
- (5) Submission and/or implementation of (accepted) fire service installations proposal.
- (6) Revocation of planning approval for non-compliance with conditions by a specified date/at any time during the approval period.
- (7) Reinstatement of the application site upon expiry of planning permission.
- (8) Submission and implementation of parking arrangement proposal.

- (9) Maintenance of the implemented drainage facilities at all times.
- (10) No car repair business, nor any activity not permitted shall be carried on in the site.
- (11) No open storage at the uncovered areas is allowed on the site at any time during the planning approval period.
- (12) Provision of boundary fencing on the site.
- (13) No vehicle parking, queuing and reverse manoeuvring are allowed on public road and at the vehicular access at any time during the planning approval period.
- (14) No vehicle to be parked/stored on or enter/exit the site.

Rejected Applications

	<u>Application No.</u>	<u>Proposed Use/Development</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejection Reason(s)</u>
1	A/YL-TT/344	Tempoary Shop and Services (Real Estate Agency) for a Period of 3 Years	15.5.2015 (on review)	(1), (2)
2	A/YL-TT/357	Tempoary Shop and Services (Environmental Consultancy and Landscaping Services) for a Period of 3 Years	25.8.2017 (dismissed on appeal)	(1), (2)
3	A/YL-TT/421	Temporary Shop and Services (Building Surveying Consultancy) for a Period of 3 Years	9.2.2018	(1), (2)

Rejection Reason(s):

- (1) Failure to demonstrate that the development would not cause adverse traffic/landscape and/or drainage impacts on the surrounding area.
- (2) Previous planning permissions granted to the applicant were revoked due to non-compliance of the approval conditions. Approval of the application with repeated non-compliances 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 site;
- (b) to note the District Lands Officer/Yuen Long, Lands Department's comments that the application site (the Site) comprises Old Scheduled Agricultural Lots held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. Lots No. 266 RP and 268 in D.D. 117 are covered by Short Term Waiver (STW) No. 4679 and 4680 respectively to permit structures erected thereon for the purpose of "Temporary Shop and Services (Local Provision Store with Ancillary Storage Area and Real Estate Agency)". The government land (GL) within the Site is covered by Short Term Tenancy (STT) No. 3069 for the purpose of "Temporary Shop and Services (Local Provision Store with Ancillary Storage Area and Real Estate Agency)". The Site is accessible to Tai Tong Road via GL. Her office does not provide maintenance work for GL involved and does not guarantee any right-of-way to the Site. The STW/STT holder(s) will need to apply to her office for modification of the STW/STT if there is any irregularities on site. Such application(s) will be considered by her department acting in the capacity as 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 her department;
- (c) to note the Chief Highway Engineer/New Territories West, Highways Department's comments that it is understood from the application that there is and will be no vehicular access to/from the Site;
- (d) to note the Director of Food and Environmental Hygiene's comments that he offered no specific views on the captioned application provided that the operation of any eating place should be under a food licence issued by the Food and Environmental Hygiene Department (FEHD). If the operator intends to operate a restaurant business in the territory, a general restaurant/light refreshment restaurant licence should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132). The application for restaurant licence, if acceptable by FEHD, will be referred to relevant government departments, such as Building Department, Fire Services Department, Planning Department 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; the applicant is also reminded that the operation of the eating place must not cause any environmental nuisance to the surrounding. The refuse 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. Furthermore, the operation of any business should not cause any obstruction or environment nuisance in the vicinity; and; No FEHD's facilities will be affected and such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding;
- (e) to follow the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by the Environmental Protection Department to minimize any potential environmental nuisances. To note the comments of the Director of Environmental Protection that sewage discharge from the Site should

be directed to nearby public sewer. Any effluent discharge from the Site should also comply with the requirements under the Water Pollution Control Ordinance. The applicant is also reminded of his obligation to take appropriate measure to minimize oily fume, cooking odour and noise impact as required under the Air Pollution Control Ordinance and Noise Control Ordinance;

- (f) to note the Director of Fire Services' comments 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 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 also be clearly marked on the layout plans. If the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), or application for food licence for the subject eating place is required, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans or referral from relevant licensing authority respectively; and
- (g) to note the Chief Building Surveyor/New Territories West, Buildings Department (BD)'s comments that If the existing structures are erected on leased land without approval of BD (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any 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 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, the prior approval and consent of BD should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person (AP) 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. 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 B(P)R at the building plan submission stage.