

**Extracts of 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

- (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.
- (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.
- (d) 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

- (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.
- (f) All other statutory or non-statutory requirements of relevant Government departments should be met.

Previous Applications Covering the Application Site

Approved Applications

<u>Application No.</u>	<u>Zoning(s)</u>	<u>Development/Use(s)</u>	<u>Date of Consideration</u>
A/YL-PS/561	“V”	Temporary Public Vehicle Park for Private Cars for a Period of 3 Years	6.7.2018 [revoked on 6.4.2020]
A/YL-PS/576	“V”	Temporary Eating Place (Light Refreshment Restaurant) for a Period of 3 Years	21.12.2018
A/YL-PS/610	“V”	Temporary Eating Place and Shop and Services for a Period of 3 Years	20.8.2021 [revoked on 21.7.2022]
A/YL-PS/671	“V”	Temporary Eating Place and Shop and Services for a Period of 3 Years	23.12.2022

Similar Applications within/straddling the same “V” zone in the past 5 years

Approved Applications

<u>Application No.</u>	<u>Zoning(s)</u>	<u>Development/Use</u>	<u>Date of Consideration</u>
A/YL-PS/682	“V”	Proposed Temporary Shop & Services for a Period of 3 Years	9.6.2023
A/YL-PS/693	“V”	Proposed Temporary Shop & Services for a Period of 3 Years	25.8.2023 (revoked on 25.2.2025)
A/YL-PS/755	“V”	Proposed Temporary Shop and Services (Retail Shop for Hardware Groceries) with Ancillary Facilities for a Period of 3 Years	18.7.2025
A/YL-PS/758	“V”, “G/IC” and “GB”	Proposed Temporary Shop and Services (Retail Shop for Selling Construction Materials) and Wholesale of Construction Materials for a Period of 3 Years	15.8.2025

Government Departments' General Comments

1. Land Administration

Comments of the District Lands Officer/Yuen Long, Lands Department:

- no adverse comment on the application;
- the application site (the Site) comprises 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;
- the private lot is covered by Short Term Waiver No. 5173 for temporary eating place (light refreshment restaurant); and
- there is no Small House application approved or under processing at the Site.

2. Traffic

(a) Comments of the Commissioner for Transport (C for T):

No adverse comment on the application.

(b) Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

No adverse comment on the application.

3. Drainage

Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- no in-principle objection to the application from a drainage point of view; and
- according to the applicant's submission, the existing drainage facilities which were implemented under an approved application No. A/YL-PS/671 will be maintained for the subject development. Should the application be approved by the Town Planning Board, a condition requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to satisfaction of DSD should be stipulated.

4. Fire Safety

Comments of the Director of Fire Services (D of FS):

- no in-principle objection to the application subject to fire service installations (FSIs) and water supplies for firefighting being provided to his satisfaction; and
- 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 proposal FSIs to his department for approval.

5. Environment

Comment of the Director or Environmental Protection (DEP):

No objection to the application;

6. Food Licensing and Hygiene

Comments of the Director of Food and Environmental Hygiene (DFEH):

No adverse comment on the application.

7. Building Matters

Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- no objection to the application; and
- it is noted that one structure is proposed in the application. 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, prior approval and consent of Buildings Authority should be obtained, otherwise they are Unauthorised Building Works. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with Buildings Ordinance;

8. District Officer's Comments

Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

No local feedback was received.

9. Other Departments

The following departments has no comment on the application:

- Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- Director of Agriculture, Fisheries and Conservation (DAFC); and
- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

Recommended Advisory Clauses

- (a) prior planning permission should have been obtained before commencing the applied uses on the Site;
- (b) to resolve any land issues relating to the development with the concerned owner(s) of the application site (the Site);
- (c) to note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) that the Short Term Waiver (STW) holder will need to apply to his office for modification of the STW conditions where appropriate. The application(s) for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that they will be approved. The STW(s), if approved, will be subject to such terms and conditions, including the payment of waiver fee and administrative fee as considered appropriate by LandsD. Besides, given the proposed use is temporary in nature, only erection of temporary structure(s) will be considered;
- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that:
- adequate drainage measures shall be provided to prevent surface water running from the Site to the nearby public roads and drains; and
 - the access road connecting the Site with Tin Wah Road is not and will not be maintained by HyD. HyD should not be responsible for maintaining any access connecting the Site with Tin Wah Road;
- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that the applicant is reminded that the required condition record should include coloured photos showing the current condition of the drainage facilities and a layout plan indicating the locations of the photos taken. The submitted photos should cover all internal surface channels, catchpits, sandtraps, manholes, terminal catch pits/manholes and the downstream discharge path as indicated on the drainage plan under approved planning application No. A/YL-PS/671;
- (f) to note the comments of the Director of Food and Environmental Hygiene (DFEH) that:
- no Food and Environmental Hygiene Department's (FEHD) facilities will be affected;
 - proper licence/permit issued by FEHD is required if there is any food business/catering service/activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public. The operation of any eating place should be under a food licence issued by FEHD. If the operator intends to operate a restaurant business in the territory, a restaurant licence should be obtained from FEHD in accordance with Cap. 132. For the operation of other types of food business, relevant food licences should also be obtained from FEHD in accordance with Cap. 132. Under the Food Business Regulation (Cap. 132X), a Food Factory Licence should be obtained from FEHD for food business which involves the preparation of food for sale for human consumption off the premises before commencement of such business. The application for food business licences under Cap.132, if acceptable by FEHD, will be referred to relevant government departments 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;

- when choosing a premises for food business licences, the applicant must ensure that the operation of food business at the subject premises is in compliance with the requirements imposed under the legislation administered by his department, other government departments and the relevant authorities. No part of a food premises shall be located in, under or over any structures built without the approval and consent of the Building Authority. Applicants should satisfy the FEHD that their premises applying for a food business licence be (i) free of unauthorised building works; (ii) in compliance with government lease conditions; and (iii) in compliance with statutory plan restrictions, otherwise the FEHD will not process the application for a licence further;
- whenever restaurant licensees 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 (BD), Transport Department, Fire Services Department, Planning Department, Home Affairs Department and LandsD for clearance. A Letter of Requirements would be issued if no objection is raised by the departments concerned and the OSA licence will be issued upon full compliance of all the requirements;
- from the restaurant licensing point of view, no shelters other than movable sunshades and the like should be allowed in the OSA. Prior approval and consent must be obtained from the Building Authority under the Buildings Ordinance (BO) (Cap. 123) for the construction of awnings or other supporting structures. The main licensing criteria for OSA in respect of hygiene requirements are as following:
 - i. an OSA should normally be annexed to restaurant premises, i.e. food and beverages need not be conveyed through an intervening public thoroughfare;
 - ii. additional food preparation space and scullery area equivalent to 1/10 of the OSA area should be provided inside the roofed-over restaurant premises;
 - iii. adequate sanitary and ablution facilities should be provided within the roofed-over area of the premises for use by the customers; and
 - iv. area in a backyard/open yard where there are no waste/soil pipes or manholes prejudicing the hygienic operation of the OSA will also be considered;
- the operation of the eating place must not cause any environmental nuisance to the surrounding. The refuse generated by the 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; and
- proper licence issued by his department is required if related place of entertainment is involved. Any person who desires to keep or use any place of public entertainment for example a theatre and cinema or a place, building, erection or structure, whether temporary or permanent, on one occasion or more, capable of accommodating the public presenting or carrying on public entertainment within Places of Public entertainment (PPE) Ordinance

(Cap. 172) and its subsidiary legislation, such as a concert, opera, ballet, stage performance or other musical, dramatic or theatrical entertainment, cinematograph or laser projection display or an amusement ride and mechanical device which is designed for amusement, a Place of Public Entertainment Licence (or Temporary Place of Public Entertainment Licence) should be obtained from FEHD whatever the general public is admitted with or without payment;

- for application for the above licences, among other licensing requirements, sufficient sanitary fitment must be provided and the installation of sanitary fitments requires approval of the Building Authority. Also, all sanitary fitment must be connected to public mains water supply and fitted with a waste pipe connected to a proper drainage system. The applicant shall comply with all stipulated requirements before the licence is issued;
- (g) to note the comments of the Director of Environmental Protection (DEP) that the applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses” in order to minimise the potential environmental nuisance on the surrounding areas;
- (h) to note the comments of the Director of Fire Services that:
- the applicant is advised to submit relevant layout plans incorporated with the proposed Fire Service Installations (FSIs) to his department for approval;
 - the applicant should be advised on the following:
 - (a) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (b) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans; and
 - 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
- (i) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that:
- 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 building plan submission stage;
 - if the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the Building Authority, they are unauthorized 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 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;

- if the applied uses under application are subject to issue of a license, the applicant should be reminded that any existing structures on the Site intended to be used for such purpose are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority;
- 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; and
- detailed checking under the BO will be carried out at building plan submission stage.