Relevant Extracts 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 Area 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 assessing the applications, the main planning criteria are also summarised 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 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.

Similar s.16 Application within the Same "Village Type Development" Zone in the Vicinity of the Site in the Past Five Years

Approved Application

	Application No.	Use/Development	Date of Consideration
1.	A/YL-KTN/717	Proposed Temporary Eating Place and Public Vehicle Park (Excluding Container Vehicle) for a Period of Three Years	18.12.2020 [revoked on 18.3.2023]

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 Lot(s) 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;
- there is no Small House application under processing or approved at the Site; and
- advisory comments are at **Appendix V**.

2. Traffic

Comments of the Commissioner for Transport:

- no adverse comment on the application from traffic engineering perspective; and
- advisory comments are at **Appendix V**.

Comments of the Chief Highway Engineer/New Territories West, Highways Department:

- no in-principle objection to the application from highways maintenance point of view; and
- advisory comments are at **Appendix V**.

3. Drainage

Comments of the Chief Engineer/Mainland North, Drainage Services Department:

- no in-principle objection to the application from drainage point of view;
- should the application be approved, approval conditions should be stipulated requiring the submission of a drainage proposal and the implementation and maintenance of the proposed drainage facilities to the satisfaction of the Director of Drainage Services or the Town Planning Board; and
- advisory comments are at **Appendix V**.

4. *Environment*

Comments of the Director of Environmental Protection:

- no objection to the application from environmental planning perspective;

- based on the applicant's submission, the proposed use would not cause traffic of heavy vehicle and dusty operation. According to his review, there are no residential structures within 100m from the boundary of the Site;

- there was no environmental complaint received against the Site in the past three years; and

- advisory comments are at **Appendix V**.

5. Nature Conservation

Comments of the Director of Agriculture, Fisheries and Conservation:

- the Site falls within the "Village Type Development" zone and is vacant. As such, he has no comment on the application from nature conservation perspective.

6. Fire Safety

Comments of the Director of Fire Services:

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

- advisory comments are at **Appendix V**.

7. Landscape Aspect

Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department:

- no adverse comment on the application from landscape planning perspective;

- based on the aerial photo, the Site was situated in an area of miscellaneous rural fringe landscape character comprising village houses, farmland, open storage sites, vacant land, scattered tree groups and a river channel. The proposed temporary use is considered not incompatible with the landscape setting in the proximity;

- with reference to the aerial photo and site photos, the Site was largely formed and some wild plants were observed within the Site. According to the applicant's submission, no tree felling will be involved; and

- in view of the above, significant adverse landscape arising from the proposed use is not anticipated.

8. District Officer's Comments

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

- his office has not received any comment from the locals on the application and he has no particular comment on the application.

9. Other Departments

The following government departments have no objection to/no comment on the application and their advisory comments, if any, are at **Appendix V**:

- Director of Food and Environmental Hygiene;
- Chief Building Surveyor/New Territories West, Buildings Department;
- Project Manager (West), Civil Engineering and Development Department;
- Chief Engineer/Construction, Water Supplies Department; and
- Director of Electrical and Mechanical Services.

Recommended Advisory Clauses

(a) to resolve any land issues relating to the proposed use with the concerned owner(s) and/or occupant(s);

(b) to note the comments of the District Lands Officer/Yuen Long, Lands Department (LandsD) that the lot owner(s) shall apply to his office for Short Term Waiver(s) (STWs) to permit the structure(s) erected within the said private lot. The application 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 application, 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 that the proposed use is temporary in nature, only erection of temporary structure(s) will be allowed;

(c) to note the comments of the Commissioner for Transport that:

  (i) the Site is connected to the public road network via a section of a local access road which is not 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;

  (ii) sufficient manoeuvring space shall be provided within the Site; and

  (iii) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;

(d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (HyD) that:

  (i) HyD shall not be responsible for the maintenance of the proposed access connecting the Site and Chi Ho Road, including the local tracks, if any; and

  (ii) adequate drainage measures shall be provided to prevent surface water running from the Site to the nearby public roads and drains;

(e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that:

  (i) the applicant shall be liable for any adverse drainage impact due to the proposed use; and

  (ii) to encourage a higher quality submission and avoid rounds of comments, thereby shortening the processing time, the applicant shall complete the checklist previously provided in preparing the drainage proposal and include the checklist in the submission. Otherwise, a longer processing time may be required;

(f) to note the comments of the Director of Environmental Protection that:

  (i) the applicant shall follow the "Control of Oily Fume and Cooking Odour from Restaurants and Food Business" issued by his department;

(ii) the applicant shall follow the revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites';

(iii) the applicant shall follow the relevant guidelines and requirements in relevant Professional Persons Environmental Consultative Committee Practice Notes (ProPECCPNs), in particular the ProPECCPN 1/23 'Drainage Plans subject to Comment by the Environmental Protection Department';

(iv) the applicant shall provide adequate supporting infrastructure/facilities for proper collection, treatment and disposal of waste/wastewater generated from the proposed use; and

(v) the applicant shall observe the statutory requirements under relevant environmental legislations;

(g) to note the comments of the Director of Fire Services that:

(i) the applicant shall submit relevant layout plans incorporated with the proposed fire service installations (FSIs) to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of proposed FSIs to be installed should be clearly marked on the layout plans. Licensing requirements, if any, would be formulated upon receipt of the referral from the relevant licensing authority; and

(ii) if the proposed structures are required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire services requirements will be formulated upon receipt of formal submission of general building plans;

(h) to note the comments of the Director of Food and Environmental Hygiene (DFEH) that:

(i) no Food and Environmental Hygiene Department's (FEHD) facilities should be affected;

(ii) proper licence / permit issued by FEHD is required if there are any food business / catering service / activities regulated by 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 the FEHD. If the operator intends to operate a restaurant business in the territory, a restaurant licence should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (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 this department 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;

(iii) when choosing a premises for food business licences, the applicant shall ensure that the operation of food business at the Site is in compliance with the requirements imposed under the legislation administered by FEHD, 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 (BA). Applicants shall 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 restriction, otherwise the FEHD will not process the application for a licence further;

(iv) proper licence issued by FEHD 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 PPE Licence (or Temporary PPE Licence) should be obtained from FEHD whatever the general public is admitted with or without payment; and

(v) the operation of any business should not cause any obstruction or environmental nuisance in the vicinity. The refuse generated by the proposed use is regarded as trade refuse. The management or owner of the site shall be responsible for its removal and disposal at their expenses; and

(i) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) that:

(i) it is noted that a 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 the BA should be obtained, otherwise they are unauthorized building works (UBW) under Buildings Ordinance (BO). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with BO;

(ii) 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);

(iii) the Site does not abut 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;

(iv) 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;

(v) 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 B(P)R;

(vi) if the proposed use under application is subject to issue of 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; and

(vii) detailed checking under BO will be carried out at building plan submission stage.