

**FURTHER CONSIDERATION OF REVIEW OF**  
**APPLICATION NO. A/YL-HTF/1092**  
**UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Proposed Temporary Warehouse of Electric Spare Parts  
for a Period of 2 Years in “Agriculture” Zone,  
Lot 384 RP in D.D.128, Deep Bay Road, Lau Fau Shan, Yuen Long**

**1. Background**

- 1.1 On 4.10.2018, the applicant, Jiin Yeeh Ding (H.K.) Enterprises Limited, sought planning permission for proposed temporary warehouse of electric spare parts for a period of 2 years under s.16 of the Town Planning Ordinance (the Ordinance) at the application site (the Site). The Site falls within an area zoned “Agriculture” (“AGR”) on the Approved Ha Tsuen Fringe Outline Zoning Plan (OZP) No. S/YL-HTF/12 (**Plan FR-1**).
- 1.2 On 12.4.2019, the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board) decided to reject the application and the reasons were:
- (a) the development is not in line with the planning intention of the subject “AGR” zone which is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission to merit a departure from such planning intention, even on a temporary basis;
  - (b) the applicant fails to demonstrate that the proposed development would not generate adverse traffic and landscape impacts on the surrounding areas; and
  - (c) approval of the application will set an undesirable precedent for applications for other developments within the “AGR” zone, the cumulative effect of which will result in a general degradation of the environment of the “AGR” zone.
- 1.3 On 9.8.2019, the Board considered the review application. After deliberation, the Board agreed to defer a decision on the review application so as to allow time to process the supplementary Traffic Impact Assessment (TIA) which was submitted at the meeting. A copy of the Town Planning Board Paper No. 10568 and the relevant extract of minutes of the Board’s meeting are at **Attachments A** and **B** respectively for Members’ reference.

## 2. **Further Information submitted by the Applicant**

In support of the further consideration of the review application, the applicant submitted the following documents:

- (a) Traffic Impact Assessment received on 9.8.2019 **(Attachment C)**  
*[Further information (FI) accepted but not exempted from publication and recounting requirement]*
- (b) Letter of 4.9.2019 from the applicant clarifying trip generation and number of car parking spaces of the development **(Attachment D)**  
*[FI accepted and exempted from publication and recounting requirement]*
- (c) Letter of 17.10.2019 from the applicant clarifying technical concerns on traffic engineering **(Attachment E)**  
*[FI accepted and exempted from publication and recounting requirement]*
- (d) Letter of 25.10.2019 from the applicant providing justifications of the review application **(Attachment F)**  
*[FI accepted and exempted from publication and recounting requirement]*

## 3. **Justifications from the Applicant**

The justifications/responses put forward by the applicant in support of the further consideration of the review application are detailed in the FI at **Attachments C, D, E and F**. They are summarised as follows:

- (a) The proposed development is temporary in nature and will not be in conflict with the planning intention. The temporary nature of the proposed use will allow flexibility without pre-empting the long-term development potential and permanent land use of the Site.
- (b) Agricultural industry is considered to be low profit and the economic restructuring has made agricultural activity economically unviable. The proposed development will provide short-term solution for the business operation of the applicant.
- (c) The number of parking spaces will be reduced from eight (as originally proposed) to two for private car and light goods vehicle (less than 5.5 tonnes).
- (d) The proposed development will only generate six vehicular trips daily which would have limited traffic impact to Deep Bay Road.
- (e) Vehicular access to the Site can be via Deep Bay Road or Kai Pak Ling Road.
- (f) The proposed development will operate from 9 a.m. to 5 p.m. on weekdays with no operation on Sunday and public holidays. Besides, no medium or heavy goods vehicles exceeding 5.5 tonnes is allowed to enter the Site. No vehicle is allowed to queue back to Deep Bay Road and U-turn area will be reserved within the Site.

- (g) The proposed development will not have significant environmental impacts on the surroundings.
- (h) The proposed development is compatible with surrounding land uses.
- (i) Approval of the application will not set an undesirable precedent for applications for other developments within the “AGR” zone.

#### **4. Comments from Relevant Government Departments**

4.1 The Commissioner for Transport and Director of Agriculture, Fisheries and Conservation (DAFC) have been further consulted and their views on the applicant’s FI are summarised as follows:

##### **Traffic**

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

- (a) On the basis of information provided by the applicant, the traffic of the Site would be through Deep Bay Road and/or Kai Pak Ling Road which are one-lane two-way carriageways. The trip generation estimated by the applicant is 6 vehicle trips per day, which only private cars or light goods vehicles are involved. He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.
- (c) Kai Pak Ling Road is not under the Transport Department’s purview. The applicant shall obtain consent of the owners/managing departments of the local tracks for using it as the vehicular access to the Site.

##### **Nature Conservation**

4.1.2 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) The DAFC maintains his previous view of not supporting the application from agricultural point of view.
- (b) It is noted that the Site falls within an area zoned “AGR” on the OZP and is a piece of paved vacant land. The agricultural infrastructures such as road access and water source are available. The Site possesses high potential for agricultural rehabilitation.
- (c) According to his record, there is a vegetable farm to the north of the Site.

- 4.2 The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) maintains his previous views on the review application and his view is recapitulated below:

**Landscape**

- 4.2.1 The CTP/UD&L, PlanD maintains his previous view of not supporting the application from landscape planning point of view and has the following comment on the review application:
- (a) The Site, located to the west of Shenzhen Bay Bridge and to the south of Deep Bay Road, falls within an area zoned “AGR” zone. The Site is the subject of 4 previously rejected applications. In the previous application No. A/YL-HT/884, he had objection to the application from the landscape planning perspective.
  - (b) The Site is located in an area dominated by farmland, fishponds, tree groups and mangroves. Some storage yards and temporary structures can be found further east and west of the Site. The Site is hard-paved and currently vacant with self-seeded vegetation within the Site. Adverse impact to the landscape character and its resources has taken place without planning approval.
  - (c) If this application is approved by the Board, it will set an undesirable precedent which may likely encourage other similar applications to clear and form the sites prior to planning permission obtained. The cumulative impact of which would result in the general degradation of the rural landscape character and overall integrity of the “AGR” zone.
- 4.3 Other Government departments maintain their previous views on the review application. Their views are in paragraphs 6.4 and 6.5 of the TPB Paper No. 10568 at **Attachment A**.

**5. Public Comments on the Review Application Received During Statutory Publication Period**

- 5.1 On 24.5.2019 and 23.8.2019, the review application and the further information (i.e. TIA) were published for public inspection for three weeks respectively. During the statutory public inspection periods, which ended on 14.6.2019 and 13.9.2019 respectively, a total of eight public comments were received from the Hong Kong Bird Watching Society (HKBWS), Kadoorie Farm & Botanic Garden Corporation (KFBG), World Wide Fund Hong Kong (WWF), Designing Hong Kong (DHK) and two individuals objecting to the review application (**Attachment G** and **Annex E of Attachment A**). The main objecting reasons are summarized below:
- (a) the proposed development is not in line with the planning intention of the “AGR” zone;
  - (b) the proposed development would generate adverse traffic and landscape impacts on the surrounding areas;

- (c) approval of the application would set an undesirable precedent for similar applications and cumulative effect of which would result in general degradation of the environment of the area;
- (d) there are potential impacts on sensitive coastal and natural scenery from the development; and
- (e) the Board should not encourage “destroy first, build later” of unauthorized development of open storage uses.

5.2 Four public comments were received at the s.16 application stage. Details are set out in paragraph 7.2 of the TPB Paper No. 10568 at **Attachment A**.

## **6. Planning Considerations and Assessments**

6.1 The application is for a review of the Committee’s decision on 12.4.2019 to reject the subject application for proposed temporary warehouse of electric spare parts for a period of 2 years at the Site zoned “AGR” on the OZP (**Plan FR-1**). The application was rejected for the reasons that the proposed development was not in line with the planning intention of the “AGR” zone, the applicant fails to demonstrate the proposed development would not generate adverse traffic and landscape impacts on the surrounding areas and approval of the application would set an undesirable precedent for similar applications for other developments. The PlanD previously does not support the application given:

- (i) the development is not in line with the planning intention of the subject “Agriculture” zone which is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification in the submission to merit a departure from such planning intention, even on a temporary basis;
- (ii) the applicant fails to demonstrate that the proposed development would not generate adverse traffic and landscape impacts on the surrounding areas; and
- (iii) approval of the application will set an undesirable precedent for applications for other developments within the “AGR” zone, the cumulative effect of which will result in a general degradation of the environment of the “AGR” zone.

6.2 The Board considered the review application at its meeting on 9.8.2019. After deliberation, the Board agreed to defer a decision on the review application so as to allow time to process the supplementary TIA which was submitted at the meeting (**Attachment C**).

### Traffic Impact

6.3 In the submitted TIA, the applicant proposes to reduce the number of car parking spaces from eight (as originally proposed) to two. The two parking spaces are for private cars and light goods vehicles (less than 5.5 tonnes) only. The TIA indicated that the proposed development will generate six vehicular trips daily and the traffic

impact to Deep Bay Road will be minimal. Having considered the supplementary TIA, the C for T has no adverse comment on the review application from traffic engineering point of view.

- 6.4 Although the applicant has addressed C for T's concern on the traffic aspect, there is no major change in the planning circumstances since the consideration of the subject application by the Committee on 12.4.2019 and the following planning considerations and assessments as stated in paragraphs 8.3, 8.4, 8.6 and 8.7 of the TPB Paper No. 10568 at **Attachment A** remain valid.

#### Planning Intention of "AGR" Zone

- 6.5 The subject application is for proposed temporary warehouse of electric spare parts for a period of 2 years at the Site zoned "AGR" on the OZP. The planning intention of the "ARG" zone is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The proposed temporary warehouse of electric spare parts use is considered not in line with the planning intention of the "AGR" zone. In this regard, DAFC maintains his view of not supporting the application from agricultural point of view as the Site possesses high potential for agricultural rehabilitation. The applicant does not provide any supporting document to substantiate any strong planning justification to merit a departure from such planning intention, even on a temporary basis.

#### Land Use Compatibility

- 6.6 The Site is located in a rural neighbourhood surrounded by unused land, fallow agriculture land and fish ponds, wetland in Deep Bay is located to its further north (**Plan FR-2**). In this regard, CTP/UD&L, PlanD maintains his view of objecting the application from the landscape planning perspective as the Site has been hard paved and adverse impact to the landscape character and its resources has taken place without planning approval. The proposed use is not compatible with the surrounding landscape character. The approval of the application would set an undesirable precedent attracting other incompatible uses to proliferate in the area and encouraging other similar applications to clear the sites prior to obtaining planning permission.

#### Previous Planning Applications

- 6.7 The Site is subject of four previous applications (No. A/YL-HT/414, 458, 471 and 884) for a temporary racing circuit and various temporary warehouse uses which were rejected by the Committee/the Board on review on 29.7.2005, 1.9.2006, 30.3.2007 and 6.6.2014 respectively mainly on the grounds that the development was not in line with the planning intention of the "AGR" zone; there was insufficient information to demonstrate that the development would not have adverse environmental and traffic impacts on the surrounding areas and approval of the application would set an undesirable precedent for similar applications within the "AGR" zone and the cumulative effect of which would result in a general degradation of the quality of agricultural land in the "AGR" zone.
- 6.8 The Board has not approved any application for temporary warehouse uses at the Site or within the subject "AGR" zone. Approval of the application, even on a

temporary basis, would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such similar applications would result in a general degradation of the rural environment and landscape quality of the area.

### Public Comments

6.9 There are eight public comments from the HKBWS, KFBG, WWF, DHK and two individuals objecting to the review application mainly on grounds stated in paragraph 5. The planning considerations and assessments in paragraphs 6.1 to 6.8 are relevant.

## **7. Planning Department’s Views**

7.1 Based on the assessments made in paragraph 6, having taken into account the public comments as mentioned in paragraph 5, and given that there is no major change in the planning circumstances since the consideration of the subject application by the Committee on 12.4.2019, the Planning Department maintains its previous view of not supporting the review application for the following reasons:

- (a) the development is not in line with the planning intention of the subject “Agriculture” zone which is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification in the submission to merit a departure from such planning intention, even on a temporary basis;
- (b) the applicant fails to demonstrate that the proposed development would not generate adverse landscape impact on the surrounding areas; and
- (c) approval of the application will set an undesirable precedent for similar applications for other developments within the “AGR” zone, the cumulative effect of which will result in a general degradation of the environment of the “AGR” zone.

7.2 Alternatively, should the Board decide to approve the application on review, it is suggested that the permission shall be valid on a temporary basis for a period of 2 years until **8.11.2021**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval conditions

- (a) no operation between 5pm and 9am is allowed on the Site, as proposed by the applicant, during the planning approval period;
- (b) no operation on Sundays and public holidays is allowed on the Site, as proposed by the applicant, during the planning approval period;
- (c) no medium or heavy goods vehicles exceeding 5.5 tonnes, including

container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;

- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the submission of tree preservation and landscape proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **8.5.2020**;
- (f) in relation to (e) above, the implementation of tree preservation and landscape proposal within **9 months** from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **8.8.2020**;
- (g) the submission of drainage proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **8.5.2020**;
- (h) in relation to (g) above, the implementation of drainage proposal within **9 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **8.8.2020**;
- (i) in relation to (h) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (j) the submission of a fire service installations proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **8.5.2020**;
- (k) in relation to (j) above, the implementation of the fire service installations proposal within **9 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **8.8.2020**;
- (l) if any of the above planning conditions (a), (b), (c), (d) or (i) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (m) if any of the above planning conditions (e), (f), (g), (h), (j) or (k) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (n) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are attached at **Attachment H**.



**8. Decision Sought**

- 8.1 The Board is invited to consider the application for a review of RNTPC's decision and decide whether to accede to the application.
- 8.2 Should the Board decide to reject the review application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 8.3 Alternatively, should the Board decide to approve the review application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.

**9. Attachments**

<b>Plan FR-1</b>	Location Plan
<b>Plan FR-2</b>	Site Plan
<b>Plan FR-3</b>	Aerial Photo
<b>Plans FR-4a to 4c</b>	Site Photos
<b>Attachment A</b>	Town Planning Board Paper No. 10568
<b>Attachment B</b>	Extract of minutes of the Board Meeting held on 9.8.2019
<b>Attachment C</b>	Transport Impact Assessment received on 9.8.2019
<b>Attachment D</b>	Letter of 4.9.2019 from the applicant clarifying trip generation and number of car parking spaces of the development
<b>Attachment E</b>	Letter of 17.10.2019 from the applicant clarifying technical concern on traffic engineering
<b>Attachment F</b>	Letter of 25.10.2019 from the applicant providing justifications for the review application
<b>Attachment G</b>	Public comments received during statutory publication periods of the review application
<b>Attachment H</b>	Recommended advisory clauses

**PLANNING DEPARTMENT  
NOVEMBER 2019**

**TPB Paper No. 10590**

**For Consideration by  
the Town Planning Board on 8.11.2019**

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