

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 R-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 to 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 For Members’ reference, the following documents are attached:
- (a) RNTPC Paper No. A/YL-HTF/1092B **(Annex A)**
 - (b) Extract of minutes of the RNTPC Meeting held on 12.4.2019 **(Annex B)**
 - (c) Secretary of the Board’s letter dated 3.5.2019 **(Annex C)**

2. Application for Review

On 15.5.2019, the applicant, under section 17(1) of the Ordinance submitted a letter for a review of the Committee's decision to reject the application (**Annex D**).

3. Justifications from the Applicant

The applicant does not provide any justification to support the review application.

4. Background of the Site

4.1 The Site is not subject to planning enforcement action.

4.2 The Site was part of three previous enforcement actions against unauthorized development (UD) in 2005, 2013 and 2016 involving filling of land (2005) and storage use (2013 and 2016). Enforcement Notices (EN) were issued on 30.11.2005, 10.7.2013 and 13.6.2016 to the concerned parties respectively. The UD were discontinued and Compliance Notices (CN) were issued on 28.4.2006, 30.7.2015 and 7.12.2016 respectively.

5. The Section 16 Application

The Site and Its Surrounding Areas

5.1 The situation of the Site and its surrounding areas at the time of the consideration of the s.16 application by the Committee was described in paragraphs 7.1 and 7.2 of **Annex A**. There has been no major change in the situation since then.

5.2 The Site is:

- (a) currently paved and vacant (**Plans R-2, R-4a to R-4c**); and
- (b) accessible from a local track from Deep Bay Road.

5.3 The surrounding areas have the following characteristics: (**Plans R-2, R-3, R-4a to R-4c**)

- (a) to the north across Deep Bay Road within area zoned "Coastal Protection Area" ("CPA") is two open storage yards of converted containers and scrap vehicles, a residential dwelling (about 43m away), an orchard, a pond and some grass land. To the further north is the wetland in Deep Bay;
- (b) to the east is scrubland and to the further east is the Shenzhen Bay Bridge; and
- (c) to the west and southwest are open storage yards of metal wares and construction machinery. To the south is scrubland. To the further southwest (about 55m away) are 2 residential dwellings.

Planning Intention

- 5.4 There has been no change in planning intention of the concerned “AGR” zone as mentioned in paragraph 8 of **Annex A**. The planning intention of the “AGR” zone is 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.

Previous Applications

- 5.5 The Site is involved in 4 previous applications No. A/YL-HT/414, 458, 471 and 884. Application No. A/YL-HT/414 covering a much larger site of about 52 hectares for a temporary racing circuit for a period of 3 years was rejected by the Committee on 29.7.2005 on the grounds that the proposed development was not in line with the planning intention of the “AGR” and “Green Belt” (“GB”) zones; there was insufficient information in the submission to demonstrate that the proposed development would not have adverse environmental, ecological, traffic, drainage, geotechnical, landscape and visual impacts; and approval of the application would set an undesirable precedent for similar applications in the “GB” and “AGR” zones.
- 5.6 Applications No. A/YL-HT/458, 471 and 884 covering the Site or a slightly larger site for temporary warehouse uses were rejected by the Committee/Board upon review on 1.9.2006, 30.3.2007 and 6.6.2014 respectively. The rejection reasons were 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. Details of these previous applications are summarised at **Appendix II** of **Annex A** and their locations are shown on **Plan R-1**.

Similar Application

- 5.7 There is one similar application (No. A/YL-HT/856) for temporary open storage of construction material and warehouse use for a period of 3 years within the same “AGR” zone on the OZP. It was rejected by the Board upon review on 15.11.2013 for the reasons that the development was not in line with the planning intention of the “AGR” zone; the development was not in line with the Town Planning Board Guidelines No. 13E for Application for Open Storage and Port Back-up Uses in that no previous approval has been granted for the site; there were adverse departmental comments; and approval of the application would set an undesirable precedent for similar applications in the area. Details of the application is summarized at **Appendix III** of **Annex A** and the location of this application site is shown on **Plan R-1**.

6. Comments from Relevant Government Departments

- 6.1 Comments on the s.16 application made by relevant government departments are stated in paragraphs 9.1 and 9.2 of **Annex A**.

- 6.2 The following government departments have been further consulted and their comments are summarised as follows:

Nature Conservation

- 6.2.1 The Director of Agriculture, Fisheries and Conservation (DAFC) maintains his previous view of not supporting the application from agricultural point of view and has the following comments on the review application:

The applicant does not provide any supplementary information to support the review application. 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.

- 6.3 The following Government departments have no further comments on the review application and maintain their previous views on the S.16 application in paragraph 9.1 of the RNTPC paper in **Annex A**. The main views are recapitulated below:

Traffic

- 6.3.1 Comments of the Commissioner for Transport (C for T):

- (a) He does not support the application from traffic engineering point of view.
- (b) Although the applicant claimed that the development would only involve traffic flow of vehicles twice a day, he considered that the figure was underestimated on the basis of the site size and the proposed 4 light goods vehicle (LGV) parking spaces and 4 LGV loading / unloading facilities within the Site.
- (c) Given the Site is proposed to be accessed through Deep Bay Road which is a single track road with passing bays, the potential traffic impact arising from the development shall be assessed by the applicant.

Landscape

- 6.3.2 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) He has objection to the application from landscape planning point of view.
- (b) 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.
- (c) 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.

- (d) 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.

6.4 The following government departments have no further view/comments on the review application and maintain their previous views on the s.16 application as stated in paragraph 9.1 of **Annex A**.

- (a) District Land Officer/Yuen Long, Lands Department (DLO/YL, LandsD);
- (b) Director of Environmental Protection (DEP);
- (c) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (d) Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD);
- (e) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (f) Director of Fire Services (D of FS);
- (g) Antiquities and Monument Office (AMO);
- (h) District Officer (Yuen Long) (DO(YL)).

6.5 The following government departments maintain their previous views of having no comment on the review application.

- (a) Project Manager/New Territories West, Civil Engineering and Development Department (PM/NTW, CEDD);
- (b) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD);
- (c) Commissioner of Police (C of P); and
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

7. Public Comments on the Review Application Received During Statutory Publication Periods

7.1 On 24.5.2019, the review application was published for public inspection for three weeks. During the statutory public inspection period, which ended on 14.6.2019, 4 public comments were received from the Hong Kong Bird Watching Society (HKBWS), Kadoorie Farm & Botanic Garden Corporation (KFBG) and two individuals objecting to the review application (**Annex E**). 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.

7.2 Four public comments were received at the s.16 application stage and are set out in paragraph 10 of the RNTPC Paper in **Annex A**

8. Planning Considerations and Assessments

- 8.1 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 R-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.
- 8.2 The applicant does not submit written response to substantiate the review application (**Annex D**) and there is no change in planning circumstances. Planning considerations and assessments on the review application are appended below.

Planning Intention of “AGR” Zone

- 8.3 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.

Incompatible with Surrounding Areas

- 8.4 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 R-2a**). 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.

Adverse Traffic Impacts

- 8.5 C for T maintains his view of not supporting the application from traffic engineering point of view. He has concern on the potential traffic impact arising from the applied use on Deep Bay Road which is a single track road and the applicant has yet to address his concern. In this regard, the applicant fails to demonstrate that the proposed development would not generate adverse traffic impact on the surrounding areas.

No Previous Planning Approval

- 8.6 The Site is subject of 4 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.
- 8.7 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

- 8.8 There are 4 public comments from the HKBWS, KFBG and two individuals objecting to the review application mainly on grounds stated in paragraph 7. The planning considerations and assessments in paragraphs 8.1 to 8.7 are relevant.

9. Planning Department’s Views

- 9.1 Based on the assessments made in paragraph 8, having taken into account the public comments as mentioned in paragraph 7, 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 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.

9.2 Alternatively, should the Committee 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 **9.8.2021**. 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 **9.2.2020**;
- (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 **9.5.2020**;
- (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 **9.2.2020**;
- (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 **9.5.2020**;

- (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 **9.2.2020**;
- (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 **9.5.2020**;
- (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 **Annex F**.

10. Decision Sought

- 10.1 The Board is invited to consider the application for a review of RNTPC's decision and decide whether to accede to the application.
- 10.2 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.
- 10.3 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.

11. Attachments

Drawing R-1	Layout Plan
Drawing R-2	Vehicle U-turn Plan
Drawing R-3	Drainage Plan
Plan R-1	Location Plan
Plan R-2	Site Plan
Plan R-3	Aerial Photo
Plans R-4a to 4c	Site Photos
Annex A	RNTPC Paper No. A/YL-HTF/1092B

Annex B	Extract of minutes of the RNTPC Meeting held on 12.4.2019
Annex C	Secretary of the Board's letter dated 3.5.2019
Annex D	Letter of 15.5.2019 from the applicant applying for review
Annex E	Public comments received during statutory publication periods of the review application
Annex F	Recommended advisory clauses

**PLANNING DEPARTMENT
AUGUST 2019**

TPB Paper No. 10568

**For Consideration by
the Town Planning Board on 9.8.2019**

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