

RNTPC Paper No. A/YL-HTF/1092B
For Consideration by
the Rural and New Town
Planning Committee
on 12.4.2019

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL- HTF/1092

- Applicant** : Jiin Yeeh Ding (H.K.) Enterprises Limited
- Site** : Lot 384 R.P. in D.D. 128, Deep Bay Road, Lau Fau Shan, Yuen Long, N.T.
- Site Area** : About 4,411m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Ha Tsuen Fringe Outline Zoning Plan (OZP) No. S/YL-HTF/11 at the time of submission

Approved Ha Tsuen Fringe OZP No. S/YL-HTF/12 currently in force
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Warehouse of Electric Spare Parts for a Period of 2 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary warehouse of electric spare parts for a period of 2 years. The Site falls within an area zoned “Agriculture” (“AGR”) on the Approved Ha Tsuen Fringe Outline Zoning Plan (OZP) No. S/YL-HTF/12 (**Plans A-1 and A-2**). According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of 3 years within the zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP.
- 1.2 The Site involves 4 previous applications (No. A/YL-HT/414, 458, 471 and 884) for temporary racing circuit or temporary warehouse uses, which were all rejected by the Rural and New Town Planning Committee (the Committee) or the Board. The last application (No. A/YL-HT/884) for temporary warehouse for storage of mock-up room of the housing development under home ownership scheme and public housing for a period of 3 years was rejected by the Board upon review on 6.6.2014. The Site is currently paved and vacant (**Plans A-2 and A-4a to A-4c**).
- 1.3 The Site is separated by a strip of Government Land (GL) from Deep Bay Road and the Site is accessible from Deep Bay Road through the GL (**Plan A-2**). As shown on the site layout on **Drawing A-1**, an ingress/egress point is located along

the northern boundary of the Site. According to the applicant's submission, the development involves a total of 10 single-storey temporary structures with a total floor area of 112m² for warehouse and site office uses. 4 van parking spaces and 4 loading/unloading spaces for lorries under 5.5 tonnes are provided on-site. The operation hours are from 9am to 5pm from Mondays to Saturdays with no operation on Sundays and public holidays. The layout plan, vehicular access plan and drainage plan submitted by the applicant are shown on **Drawings A-1 to A-3**.

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application form received on 4.10.2018. **(Appendix I)**
- (b) Further Information (FI) received on 20.2.2019 providing response to departmental comments (*accepted and exempted from publication and recounting requirements*) **(Appendix Ia)**
- (c) FI received on 26.3.2019 providing a revised layout (*accepted and exempted from publication and recounting requirements*) **(Appendix Ib)**

1.5 On 16.11.2018 and 18.1.2019, the Committee agreed to the applicant's requests to defer making a decision on the application, each for two months, to allow time for the preparation of FI to address departmental comments. Subsequently, the applicant submitted FI to address comments from Government departments. The application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in para. 9 of the application form (**Appendix I**). They can be summarised as follows:

- (a) The "Agriculture" ("AGR") zone is intended to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. The proposed use for temporary storage of electric spare parts is considered not entirely incompatible with the planning intention of the "AGR" zone.
- (b) There will be minimal traffic created by the proposed development. The traffic flow will only involve vans and no heavy vehicles will be used.
- (c) There will be 4 van parking spaces and 4 loading/unloading areas for lorries under 5.5 tonnes on-site to facilitate delivery of electronic spare parts.
- (d) The operation hour is from 9am to 5pm from Mondays to Saturdays with no operation on Sundays and public holidays.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is the sole "current land owner". Detailed information would be

deposited at the meeting for Members' inspection.

4. Background

The Site is not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site is involved in 4 previous applications No. A/YL-HT/414, 458, 471 and 884. Details of the applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 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.
- 5.3 Applications No. A/YL-HT/458, 471 and 884 for temporary warehouse uses were rejected by the Committee/Board upon review, on 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.
- 5.4 Compared with the last application No. A/YL-HT/884, the current application is submitted by a different applicant for a similar warehouse use.

6. Similar Application

Within the "AGR" zone along Deep Bay Road, there is one similar application. Planning application No. A/YL-HT/856 for temporary open storage of construction material and warehouse use 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 are summarized at **Appendix III** and the location is shown on **Plan A-1**.

7. The Site and Its Surrounding Areas (Plan A-1 to Plan A-4c)

7.1 The Site is:

- (a) currently paved and vacant; and
- (b) separated by a strip of GL from Deep Bay Road, which is a single-lane carriageway for two-way traffic.

7.2 The surrounding areas have the following characteristics:

- (a) to the north across Deep Bay Road within area zoned “Coastal Protection Area” (“CPA”) is an open storage yard of converted containers, a residential dwelling (about 43m away), an orchard, a pond and some fallow agricultural land. To the further north is the wetland in Deep Bay.
- (b) To the east is vacant and unused land and to the further east is the Shenzhen Bay Bridge.
- (c) To the west and southwest are open storage yards of metal wares and construction machinery. To the south are vacant temporary structures and vegetated vacant land. To the further southwest (about 55m away) are 2 residential dwellings.

8. Planning Intention

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.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

9.1.1 Comment of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lot 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.
- (b) The Site falls within “Fu Tei Au Site of Archaeological Interest” (AM98-0910).
- (c) The Site is accessible from Deep Bay Road through GL. His office provides no maintenance works to the GL involved and does not guarantee any right-of-way over the GL to the Site.

- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the subject planning application, the lot owner will need to apply to his office for permitting the structures to be erected or to regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Application(s) for any of the above will be considered by the LandsD acting in the capacity of the 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 the LandsD.

Drainage

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

He has no objection in principle to the proposed application from a drainage point of view. Should the Board consider that the application is acceptable from the planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his department.

Environment

9.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) The applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP to minimize potential environmental nuisance to the surrounding area.
- (b) No pollution complaint against the Site was received in the past 3 years.

Traffic

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

- (a) On the basis of the application documents, 4 light-goods vehicle (LGV) parking spaces and 4 LGV loading/unloading areas were proposed. On the other hand, the applicant advised that the trip generation would only be twice a day.
- (b) Although the applicant claimed that the subject development would only involve traffic flow of vehicles twice a day, Transport Department (TD) considered that the figure was underestimated on

the basis of the site size and the proposed number of parking spaces and loading / unloading spaces within the Site.

- (c) Given that 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 applied use shall be assessed by the applicant. In this connection, TD does not support the application from traffic engineering point of view.

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

- (a) The access arrangement should be commented by TD.
- (b) If the proposed access arrangement is agreed by TD, a proper road connection or run-in/out should be constructed to the satisfaction of TD and HyD.
- (c) Adequate drainage measures should be provided at the site access to prevent the surface water flowing from the Site to nearby public roads/drains.
- (d) The proposed access will run across the existing U-channel between the Site and Deep Bay Road. The applicant should design, construct and maintain the access, including the U-channel, without disruption to the existing drainage system to the satisfaction of his department. The applicant is required to submit the relevant access proposal for his further comment. After the expiry of the planning application, the applicant is required to reinstate the affected area (i.e. the existing U-channel) to its original status.
- (e) HyD shall not be responsible for the maintenance of any access connecting the Site and Deep Bay Road.

Landscaping

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

- (a) He has objection 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. The current application seeks planning permission for similar use for 2 years on a slightly smaller site.
- (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. Based on the site photos taken on 19.10.2018 and aerial photo taken on

3.1.2018, 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.
- (e) Should the application be approved, approval conditions on the submission and implementation of landscape and tree preservation proposals to the satisfaction of the Director of Planning should be imposed.
- (f) The applicant is reminded that approval of the Landscape Proposal under planning application does not imply approval of tree works such as felling/transplanting or pruning under lease. Any proposed tree preservation/removal scheme involving trees outside the Site in particular, the applicant shall be reminded to approach relevant authority/government department(s) direct to obtain necessary approval.

Nature Conservation and Agriculture

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

- (a) 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. The application is not supported from agricultural point of view.
- (b) It is also noted that the lots (i.e. 378S.A RP, 378 RP and 139 RP in D.D. 128) opposite to the Site within “CPA” zone was previously involved in unauthorized pond filling. He trusts the Board would take this into consideration among others when considering the application.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations being provided to the satisfaction of D of FS.
- (b) 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 proposed FSIs to his department for approval. In addition, the applicant should also

be advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy and the location of where the proposed FSI to be installed should be clearly marked on the layout plans.

- (c) However, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the Buildings Department (BD), they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the captioned application.
- (b) 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 building works or UBW on the Site under the BO.
- (c) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of his department should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (d) 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.
- (e) 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 the B(P)R at the building plan submission stage.

Other Aspects

9.1.10 Comments from the Antiquities and Monument Office (AMO):

In view of the location and scope of the proposed temporary warehouse, the AMO has no objection to the application from cultural heritage viewpoint. Nevertheless, the applicant is required to inform AMO immediately if antiquities or supposed antiquities are discovered within the Site for the proposed temporary warehouse.

District Officer's Views

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

His office has not received any comment from the locals on the application.

9.2 The following Government departments have no comment on the application:

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

10. Public Comments Received During Statutory Publication Period

On 12.10.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 2.11.2018, 4 public comments were received from the Hong Kong Bird Watching Society (HKBWS), Designing Hong Kong (DHK), Kadoorie Farm and Botanic Garden (KFBG) and an individual objecting to the application (**Appendices IV-1 to IV-4**). The main objecting reasons are summarized below:

- (a) not in line with the planning intention of the “AGR” zone;
- (b) the applied use is not compatible with the rural neighbourhood and surrounding residential dwellings;
- (c) there are adverse ecological, drainage, landscape and environmental impacts; and
- (d) 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.

11. Planning Considerations and Assessments

11.1 The application is for a proposed temporary warehouse of electric spare parts for a period of 2 years at the Site zoned “AGR”. The planning intention of the “AGR” zone 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. In this regard, the proposed temporary warehouse use is not in line with the planning intention of the “AGR” zone. Besides, DAFC does not support the application from agricultural point of view as the Site possesses high potential for agricultural rehabilitation. The applicant has not provided any strong planning justification in the submission to merit a departure from such planning intention, even on a temporary basis.

11.2 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. CTP/UD&L objects to 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.

- 11.3 C for T does not support 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 area.
- 11.4 The Committee/Board has not approved any application for warehouse uses within the subject "AGR" zone. Approval of the application would set an undesirable precedent and encourage other applications for similar development within the subject "AGR" zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area. Rejection of the application is in line with the Committee's/Board's previous decisions.
- 11.5 Four public comments were received objecting to the application mainly on grounds stated in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.4 are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department does not support the 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.
- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 2

years until **12.4.2021**. 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 **12.10.2019**;
- (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 **12.1.2020**;
- (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 **12.10.2019**;
- (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 **12.1.2020**;
- (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 **12.10.2019**;
- (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 **12.1.2020**;
- (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 **Appendix V**.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.
- 13.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

14. Attachments

Appendix I	Application form received on 4.10.2018
Appendix Ia	FI received on 20.2.2019 providing response to departmental comments
Appendix Ib	FI received on 26.3.2019 providing a revised layout
Appendix II	Previous Applications
Appendix III	Similar Applications within the same “AGR” zone
Appendix IV-1 to IV-4	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Vehicle U-turn Plan
Drawing A-3	Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a to 4c	Site Photos