

RNTPC Paper No. A/YL-KTS/805
For Consideration by
the Rural and New Town
Planning Committee
on 16.11.2018

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE/DEVELOPMENT UNDER SECTION 16 OF
THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/YL-KTS/805

- Applicant** : Chief Force Limited
- Site** : Lot 1336 S.A (Part) in D.D. 106, Kong Ha Wai, Kam Sheung Road, Pat Heung, Yuen Long, New Territories
- Site Area** : About 1,327m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/14
- Zoning** : “Residential (Group D)” (“R(D)”) (maximum plot ratio of 0.2 and building height of 2 storeys (6m))
- Application** : Renewal of Planning Approval for Temporary Warehouse for Storage of Building Material Products for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to use the application site (the Site) for temporary warehouse for storage building material products for a period of 3 years. The Site is currently used for the applied use with valid planning permission.
- 1.2 The Site is the subject of seven previous applications for various temporary timber processing workshop or warehouse uses. All applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) from 1998 to 2016. The last application No. A/YL-KTS/688 for the same applied use and submitted by the same applicant as the current application was approved with conditions by the Committee on 8.1.2016 for a period of 3

years. All approval conditions of the last application have been complied with and the planning permission is valid until 8.1.2019.

- 1.3 According to the information provided by the applicant, a 1-storey temporary structure with a total floor area of about 727.5m² and building height of about 6m is provided on-site for warehouse and office uses. The Site is accessible via a local track from Kam Sheung Road. Two parking spaces for private cars and light goods vehicles are provided within the Site. The operation hours are between 9 a.m. and 6 p.m. Mondays to Saturdays and no operation on Sundays and public holidays. The layout plan, drainage proposal, landscape proposal, fire services installations (FSIs) proposal and vehicular access plan as submitted by the applicant are in **Drawings A-1 to A-5**.
- 1.4 When compared with the last approved application No. A/YL-KTS/688, the current application is for the same applied use, site area, floor area, layout and number of structure and car parking spaces.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary planning statement and plans received on 25.9.2018. **(Appendix I)**
 - (b) Further Information (FI) received on 25.10.2018 in response to the comments of the Commissioner for Transport (C for T) **(Appendix Ia)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary planning statement and FI in **Appendices I to Ia**. They can be summarized as follows:

- (a) The applied use does not involve permanent structures and does not contravene the planning intention. It is compatible with the surrounding area and no adverse impact on nearby residents is anticipated.
- (b) The Site is the subject of a previous approved planning application No. A/YL-KTS/688. The applicant has complied with all the approval conditions. There was no change in planning circumstances and no complaint received in past 3 years.
- (c) The applicant has properly maintained the trees and landscaping on-site. The drainage facilities on-site have been cleaned regularly to avoid flooding. The Site has also been provided with appropriate FSIs. There is no traffic impact on Kam Sheung Road or the surrounding area. The applicant will comply with all approval condition if the application is approved.

3. **Compliance with the “Owner’s Consent/Notification” Requirements**

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting at the Site and sending notice to Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Town Planning Board Guidelines**

The Town Planning Board Guideline for “Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development” (TPB PG-No. 34B) is relevant to this application. The relevant assessment criteria are attached at **Appendix II**.

5. **Background**

The Site is not subject to planning enforcement action. If planning permission for the same use is not granted and the open storage use on site continues after the expiry of the current planning approval (i.e. the use continues but without a valid planning permission), such use would be considered as an unauthorized development under the Town Planning Ordinance and enforcement action would be taken against it.

6. **Previous Applications**

6.1 The Site was the subject of seven previous applications (No. A/YL-KTS/128, 175, 226, 363, 469, 588 and 688) for various temporary workshop or warehouse uses. All applications were approved with conditions by the Committee. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1b**.

6.2 Applications No. A/YL-KTS/128, 175 and 226 for temporary timber processing workshop for a period for 12 months or 3 years were approved with conditions by the Committee on 31.7.1998, 13.8.1999 and 8.9.2000 respectively mainly for the reasons that the site was located within an area which was predominantly a mixture of open storage yards, workshop uses and agricultural land; there was no sensitive receivers in the vicinity; there was no objection from departments and locals; and there was no change in planning circumstances since the last approval. However, application No. A/YL-KTS/226 was revoked on 8.6.2001 due to non-compliance with approval conditions related to the submission and implementation of the landscape proposal and the provision of drainage facilities.

6.3 Applications No. A/YL-KTS/363 and 469 for temporary warehouse for storage of recycled timber products for a period of 3 years were approved with conditions by

the Committee on 17.3.2006 and 4.9.2009 respectively for the reasons that the development was not incompatible with the surrounding areas; approval of the application on temporary basis would not jeopardize the planning intention; there was no adverse departmental comments; and previous approvals have been granted for similar use on the site. However, application No. A/YL-KTS/469 was revoked on 4.5.2011 due to non-compliance with approval conditions related to provision of fencing and submission and implementation of fire service installations proposal.

- 6.4 Applications No. A/YL-KTS/588 and 688 for the same use as the current application were approved with conditions by the Committee on 11.1.2013 and 8.1.2016 respectively for the reasons that the development was not incompatible with the surrounding areas; approval of the application on temporary basis would not jeopardize the planning intention; previous approvals have been granted for similar use on the site; and there was no adverse departmental comments. All the approval conditions of the last approved application No. A/YL-KTS/688, including those related to drainage, fencing, tree preservation and fire safety aspects have been complied with and the planning permission is valid until 8.1.2019.
- 6.5 Compared with the last application, the current application is submitted by the same applicant for the same applied use, site area, floor area layout and number of structure and car parking spaces.

7. Similar Applications

- 7.1 There are four similar applications No. A/YL-KTS/403, 451, 599 and 695 for temporary warehouse and office (with or without open storage) uses within the same and adjoining “R(D)” zone. Details of these applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1a**.
- 7.2 Applications No. A/YL-KTS/403, 451 (both for a period of 1 year) and 695 (for a period of 3 years) for temporary warehouse and office were approved with conditions by the Committee on 10.8.2007, 23.1.2009 and 10.6.2016 respectively for the reasons that the development was not incompatible with the surrounding areas; environmental impact generated by the development would not be significant; previous approval had been granted for similar use on the site; there was no adverse departmental comment; and the environmental concern could be addressed by appropriate approval conditions. However, applications No. A/YL-KTS/451 and 695 were revoked on 23.9.2009 and 10.9.2017 respectively due to non-compliance with approval conditions.
- 7.3 Application No. A/YL-KTS/599 for temporary warehouse and ancillary office and open storage for a period of 3 years was rejected upon review by the Town Planning Board (the Board) on 13.9.2013 on the grounds that the development was not in line with the planning intension; the application was not in line with Town Planning Board Guideline for “Application for Open Storage and Port

Back-up Uses” in that the development was not compatible with the surrounding land uses and no previous approval was granted at the site; the applicant failed to demonstrate that the development would not generate adverse landscape and drainage impacts on the surrounding area; and the approval of the application would set an undesirable precedent for similar applications.

8. The Site and Its Surrounding Areas (Plans A-1a to A-4)

8.1 The Site is:

- (a) used for the applied use with a valid planning permission under application No. A/YL-KTS/688; and
- (b) accessible from Kam Sheung Road via a local track.

8.2 The surrounding areas are rural in character, mixed with open storage/storage yards, workshop, warehouse, residential structures/dwellings, a farm and vacant/unused lands. Some of the open storage/storage yards, workshop and warehouse are suspected unauthorized development subject to enforcement action by the Planning Authority:

- (a) to its north are some open storage/storage yards, warehouse and workshop;
- (b) to its east is an open storage yard with valid planning permission No. A/YL-KTS/684 and some residential dwellings/structures. To its northeast across an access road are open storage/storage yards (one of them with valid planning permission), parking of vehicles and vacant/unused land; and
- (c) to its immediate south is an open storage yard. To its west and southwest is a farm.

9. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

10. Comments from Relevant Government Departments

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

Land Administration

10.1.1 Comments of the District Lands Officer, Yuen Long. Lands Department (DLO/YL, LandsD):

- (a) The Site comprises an 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) Lot No. 1336 S.A in D.D. 106 within the Site is covered by Short Term Waiver (STW) No. 3884 to permit structures erected thereon for the purpose of “temporary open storage of vehicles and modification workshop for vans and lorries”.
- (c) The Site is accessible from Kam Shui Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure will not exceed the relevant airfield height limit within SKAHRA.
- (e) Should planning approval be given to the application, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. 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. Applications for any of the above will be considered by LandsD acting in the capacity as 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.

Traffic

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

- (a) He has no comment on the application.
- (b) Should the application be approved, an approval condition stating that no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.

- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department (TD). The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) HyD does not and will not maintain any access connecting the Site and Kam Sheung Road, Kam Shui South Road or Kam Shui Road. The applicant should be responsible for his own access arrangement.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Nature Conservation

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

As the Site is used for similar purposes for some years and the current application seeks for renewal of the existing use, he has no comment on the application from nature conservation point of view.

Environment

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

- (a) There was no environmental complaint in respect of the Site received in the past three years.
- (b) The applicant is advised to follow the relevant mitigation measures and requirement in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (“COP”) issued by DEP.

Landscape

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

- (a) She has no objection to the application from the landscape planning point of view.

- (b) The Site involved in 7 previous applications to which she had no objection to the last application (No. A/YL-KTS/688) for the same use.
- (c) Compared the aerial photo of 2015 to the latest aerial photo of 2018, there is no significant change in the rural landscape characters where the Site is located. The surrounding area comprises of temporary structures, open storage, car parks, farmland and some scattered tree groups. The applied use is considered not incompatible with the landscape setting in proximity.
- (d) According to the site visit conducted on 12.10.2018, the Site was hard paved. Existing trees located along northern boundary of the Site were generally in good condition, except one tree was over pruned. There was no existing tree at the eastern part of the Site where was covered by the temporary structure. No significant landscape impact is anticipated.
- (e) Should the application be approved, approval condition on the maintenance of existing trees and landscape plantings to healthy condition at all times during the approval period should be included in the planning approval.
- (f) Her detailed comments are at **Appendix V**

Drainage

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

- (a) He has no in-principle objection to the development.
- (b) Based on the drainage proposal/planning statement enclosed in the application, apparently the applicant would maintain the same drainage facilities as those implemented under previous application No. A/YL-KTS/688.
- (c) Should the application be approved, approval conditions on the maintenance of the drainage facilities implemented under application No. A/YL-KTS/688 and submission of the records of the existing drainage facilities on site should be included in the planning approval.

Fire Safety

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

- (a) He has no objection in principle to the application subject to fire service installations (FSIs) being provided to his satisfaction.
- (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. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) 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.

Project Interface

10.1.9 Comments of the Project Manager/(West), Civil Engineering and Development Department (PM/(W), CEDD)

- (a) He has no objection to the application.
- (b) The Site falls within one of the potential housing development sites identified in the Land Use Review of Kam Tin South and Pat Heung. The application should be considered in the context of the housing developments at Kam Tin South, the existing infrastructure, the current uses permitted under the existing Outline Zoning Plan, the prevailing land administration policy and the Buildings Ordinance.

Building Matters

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

- (a) If the existing structures are erected on leased land without approval of the BD (not being a New Territories Exempted House), they are unauthorized under the BO and should not be designated for any use under application.
- (b) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained. Otherwise,

they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.

- (c) 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.
- (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 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 Building (Planning) Regulation at the building plan submission stage.

District Officer's Comments

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

He has not received any comment from locals upon close of the consultation period and he has no particular comments on the application.

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

- (a) Director of Electrical and Mechanical Services (DEMS);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (c) Commissioner of Police (C of P).

11. Public Comment Received During Statutory Publication Period

On 5.10.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 26.10.2018, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning permission for temporary warehouse for storage of building material products for a period of three years in “R(D)” zone. The applied use is not in line with the planning intention of the “R(D)” zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent building, and for low-rise, low-density residential developments subject to planning permission from the Board. Nevertheless, there is no known development programme for long-term development at the Site. Hence, it is considered that the planning approval of the application on a temporary period of 3 years would not jeopardize the long-term planning intention of the “R(D)” zone.
- 12.2 The surrounding areas are mixed with open storage/storage yards, workshops, warehouses, farm, residential structures/dwellings and vacant/unused land. There are two previous applications at the Site for the same use as the current application which were approved by the Committee in 2013 and 2016 as mentioned in paragraph 6.4 above. There are also three similar applications for temporary warehouse use in the same “R(D)” zone approved by the Committee between 2007 and 2016 as mentioned in paragraph 7.2 above. Approval of the application is in line with the Committee’s previous decisions.
- 12.3 The application is in line with the TPB PG-No. 34B in that previous approvals (Applications No. A/YL-KTS/588 and 688) for the same applied use were granted on 11.1.2013 and 8.1.2016 respectively (**Plan A-1b** and paragraph 6 refer) and all the approval conditions under the last approved application No. A/YL-KTS/688 including those related to the drainage and fire services installations aspects have been complied with. The current application is the same as the last application in terms of site area/boundary, applied use and site layout and there is no major change in planning circumstances since the last approval. In this regard, favourable consideration can be given to the current renewal application.
- 12.4 Relevant departments consulted including CTP/UD&L of PlanD, C for T, CE/MN of DSD and DEP have no adverse comment. In order to address any possible nuisance generated by the temporary use, approval conditions restricting the operation hours, vehicle types and prohibiting dismantling, maintenance, repairing, cleansing, paint-spraying or other workshop activities are recommended in paragraph 13.2 (a) to (c) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on-site will be subject to enforcement action by the Planning Authority. The applicant will also be advised to adopt the “COP” in order to alleviate any potential impact. The technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS on traffic, landscape, drainage and fire safety aspects could be addressed by imposing approval conditions (d) to (j) in paragraph 13.2 below.

12.5 No public comment was received during the statutory publication period.

13. Planning Department's Views

13.1 Based on the assessment made in paragraph 12 above, the Planning Department considers that the temporary warehouse for storage of building material products could be tolerated for a period of 3 years.

13.2 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 3 years, and be renewed from 9.1.2019 until 8.1.2022. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities are allowed on the Site at any time during the planning approval period;
- (d) no medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the existing trees and landscape plantings on the Site shall be maintained at all times during the planning approval period;
- (g) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of records of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 9.4.2019;

- (i) the submission of fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 9.7.2019;
- (j) in relation to (i) above, the provision of fire service installations within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 9.10.2019;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (l) if any of the above planning conditions (h), (i) or (j) 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.

[The above approval conditions are the same as those under planning permission for pervious application No. A/YL-KTS/688, except the deletion of approval conditions on the submission and implementation of tree preservation proposal based on CTP/UD&L of PlanD's comments.]

Advisory Clauses

The recommended advisory clauses are at **Appendix VI**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

The development is not in line with the planning intention of the "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent building, and for low-rise, low-density residential developments subject to planning permission from the Town Planning Board. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for the renewal of the planning permission.
- 14.2 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.

- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application form with supplementary planning statement and plans received on 26.9.2018
Appendix Ia	FI received on 25.10.2018 in response to the comments of the C for T
Appendix II	Relevant Extracts of Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Condition for Temporary Use or Development (TPB PG-No. 34B)
Appendix III	Previous applications covering the Site
Appendix IV	Similar applications within the same and adjoining “R(D)” zones on the Kam Tin South OZP
Appendix V	Detailed comments from CTP/UD&L, PlanD
Appendix VI	Advisory Clause
Drawing A-1	Layout Plan
Drawing A-2	Landscape Proposal
Drawing A-3	Drainage Proposal
Drawing A-4	Vehicular Access Plan
Drawing A-5	FSIs Proposal
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Location Plan with Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo

Plans A-4 Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2018**