

RNTPC Paper No. A/YL-PH/792
For Consideration by
the Rural and New Town
Planning Committee
on 5.10.2018

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

APPLICATION NO. A/YL-PH/792

- Applicant** : Chief Force Limited
- Site** : Lots 83 (Part), 85 RP (Part), 86 (Part), 87 S.B (Part), 87 RP (Part) and 92 RP (Part) in D.D. 111 and Adjoining Government Land, Pat Heung, Yuen Long
- Site Area** : About 1,318m² (including Government Land of about 110m²)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
- Application** : Renewal of Planning Approval for Temporary Car Park for Villagers (Excluding Container Vehicle) for a Period of 2 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to use the application site (the Site) for temporary car park for villagers (excluding container vehicle) for a period of 2 years. The Site is currently used for the applied use with valid planning permission under Application No. A/YL-PH/737.
- 1.2 The Site is the subject of four previous Applications No. A/YL-PH/642, 653, 703 and 737 for public vehicle park and temporary car park for villagers. The last application (No. A/YL-PH/737) was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 14.10.2016 for a period of two years. All the approval conditions including those related to drainage and fire safety aspects have been complied with. The planning permission is valid until 31.10.2018.

- 1.3 According to the applicant, there is no change to the applied use, site area and layout of the approved scheme under application No. A/YL-PH/737. A total of 15 parking spaces for private cars are provided within the Site. There is no structure within the Site. The development is open free of charge for villagers to park their vehicles on a 24 hours daily basis. The landowners of the concerned lots within the Site agreed to the continual use of the applied car park. Notices are posted on-site to indicate the set of rules for using the car park to minimise the possible nuisance on the Site to the residents nearby (**Appendix Ib**). No lighting will be provided within the Site from 11:30pm to 8:30am. No workshop-related activity is carried out within the Site and no vehicle exceeding 5.5 tonnes will enter the Site. The Site is accessible via a local road branching off Fan Kam Road to its west at a distance of about 120m. Plans showing the site layout plan with landscape, drainage and fire service installation proposals and vehicular access plan are at **Drawings A-1 and A-2**.
- 1.4 When compared with the previous approved application No. A/YL-PH/737, there is no change to the applied use, site area / boundary and layout in the current submission.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary planning statement (**Appendix I**) and plans received on 8.8.2018
 - (b) Supplementary Information (SI) received on 14.8.2018 (**Appendix Ia**) clarifying the operation details
 - (c) Further information (FI) received on 12.9.2018 and (**Appendix Ib**) 26.9.2018 in response to departmental comments
(*accepted and exempted from publication and recounting requirements*)

2. Justifications from the Applicant

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

- (a) There is no change under the current application in terms of applied use and site area as compared with the previous approved application. The applied use is intended to serve the nearby villagers for free. It will not jeopardize the long-term planning intention of the “V” zone.
- (b) The existing planting, drainage facilities and fire services installation will be properly maintained. Notice will be posted at the Site to remind users to minimize

possible nuisances. No complains have been received from government departments and locals in the last application.

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. 31) by posting site notice and sending notification letter to the 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 Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34B) are relevant to this application. The relevant assessment criteria are attached at **Appendix II**.

5. Background

Since the use currently on site is still covered by a valid planning permission, follow-up investigation will be taken upon expiry of the current planning permission if the subject application is not approved by the Town Planning Board (the Board).

6. Previous Applications

- 6.1 The Site is the subject of four previous planning applications (No. A/YL-PH/642, 653, 703 and 737) for similar vehicle park use. Details of the applications are summarized in **Appendix III** and the locations of the sites are shown on **Plan A-1**.
- 6.2 Application No. A/YL-PH/642 submitted by a different applicant for public vehicle park (private cars and light goods vehicles) was rejected by the Committee on 20.7.2012 on the grounds that the development was not in line with the planning intention, and that the site was located within a village cluster and the applicants failed to demonstrate that the development would not have adverse environmental impacts on the adjacent residential dwellings.
- 6.3 Three applications (No. A/YL-PH/653 submitted by a different applicant of the current application; No. A/YL-PH/703 and 737 submitted by the same applicant of the current application) for temporary car park for villagers (excluding

container vehicles) were approved on review by the Board or by the Committee on 14.2.2014, 31.10.2014 and 14.10.2016 for one year and two years (the latter two) respectively as applied by the applicant mainly for the reasons that the development would only be used by villagers and would help meeting the local demand for car park. All the approval conditions of the three applications, including those related to landscaping, drainage, fire service installations and measures to mitigate possible nuisance of noise and artificial lighting had been complied with. The permission of the last application No. A/YL-PH/737 is valid until 31.10.2018.

- 6.4 The current application is same as the last application in terms of applied use, site area / boundary and layout.

7. Similar Applications

- 7.1 There are four similar applications (No. A/DPA/YL-PH/18, A/YL-PH/84, 181 and 291) for public vehicle park within the same “V” zone or straddled the same “V” zone and other zones on the Pat Heung OZP (**Plan A-1**). Details of the applications are in **Appendix IV** and their locations are shown on **Plan A-1**.
- 7.2 Three applications (Applications No. A/YL-PH/84, 181 and 291) were approved with conditions by the Committee or the Board on review on 14.3.1997, 20.11.1998 and 27.8.1999 respectively for similar reasons that the developments could meet some of the parking demand; the developments were compatible and functional in supporting the village type development; and the relevant departments had no adverse comment on the applications.
- 7.3 The remaining application (No. A/DPA/YL-PH/18) was rejected by the Committee on 13.8.1993 on the grounds that the application was not in line with the planning intention and a main water pipeline in the vicinity would be affected.

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

- 8.1 The Site is:
- (a) elongated in configuration. It is currently paved and used for the applied use with valid planning permission; and
 - (b) located in Shui Kan Shek and accessible via a local track branching off Fan Kam Road to its west at a distance of about 120m.
- 8.2 The surrounding areas are rural in character predominated by residential dwellings/structures, agricultural land, parking of vehicle, a number of open storage yards and vacant/unused land. Majority of the open storage yards are

suspected unauthorized development subject to enforcement action by the Planning Authority:

- (a) to its immediate north, west and east are village houses. There are a number of open storage yards and parking of vehicles located to the further west and north within the same “V” zone and “Residential (Group D)” (“R(D)”) zone (**Plan A-2**). To the further east is unused land; and
- (b) to its immediate south are a toilet, a storage yard and vacant/unused land. Fallow agricultural land, residential dwellings/structures and vacant/unused land are located to the further south.

9. Planning Intention

The planning intention of the “V” is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to 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 Government Land (GL) and Old Schedule Agricultural Lots 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) No permission is given for the occupation of GL (about 110m² subject to verification) included in the Site. Attention is drawn to the fact that any occupation of GL without Government’s prior approval is not allowed.

- (c) The Site is located within “V” zone. Under the prevailing policy, land within “V” zone or village environ is primarily reserved for development of New Territories Exempted House by indigenous villagers under the New Territories Small House Policy.
- (d) The Site is accessible from Fan Kam Road via 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.
- (e) The Site falls within the Shek Kong Airfield Height Restriction Area (SKAHRA).
- (f) There is no Small House application approved or under processing within the Site and in the vicinity.
- (g) Should the application be approved, the lot owner(s) will need to apply to his office if any structure to be erected or 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. Furthermore, the applicant has to either exclude the GL portion from the Site or apply for a direct grant STT for use of the Site. Applications for any of the above will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application 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 renewal application from the traffic engineering point of view.
- (b) Should the application be approved, approval condition on 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. 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 Highway Engineer/NT West, Highways Department (CHE/NTW, HyD) :

- (a) HyD does not and will not maintain any access connecting the Site and Fan Kam Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

There was no environmental complaint received in the past 3 years. The applicant is advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.

Landscape

10.1.5 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 perspective.
- (b) The Site is connected to a paved driveway leading to Fan Kam Road to the west. The Site was the subject of four previous applications (No. A/YL-PH/624, 653, 703 and 737). She has no objection to the last application (No. A/YL-PH/737) applied by the same applicant from the landscape planning perspective.
- (c) Based on the aerial photo taken in January 2018, the Site is situated in an area of rural landscape character comprising of scattered tree groups and Small Houses. Although the applied use

is not in line with the planning intention of “V” zone, it is not incompatible to the surrounding environment. According to the site photos taken in August 2018, no significant change is observed in the adjacent area and within the application boundary since the last application. The existing landscaping implemented for the previous application is in good condition. Adverse impact on landscape character and landscape resources arising from the continual use of temporary car park for villagers (excluding container vehicle) is not anticipated.

- (d) Should the application be approved, approval condition on maintenance of existing trees and vegetation within the Site satisfactorily at all times during the planning approval period should be included in the permission.

Nature Conservation

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

Noting that the Site has been paved for the applied use for some years and the application is a renewal of the existing use, he has no comment on the application from nature conservation point of view.

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) It is noted from the drainage proposal that the applicant would maintain on-site the same drainage facilities provided under the previous Application No. A/YL-PH/737. He has no comment on the drainage proposal.
- (c) Should the application be approved, conditions requiring the applicant to maintain the drainage facilities implemented under the Application no. A/YL-PH/737 and to submit records of the existing drainage facilities on-site to the satisfaction of the Director of Drainage Services or of the Board should be included.

Water Supply

10.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) Existing water mains will be affected (**Plan A-2**). The developer shall bear the cost of any necessary diversion works affected by the development.
- (c) In case it is not feasible to divert the affected water mains, a waterworks reserve within 1.5m from the centerline of the water mains shown in **Plan A-2** shall be provided to WSD. No structure shall be erected over this waterworks reserve and such area shall not be used for storage purposes.
- (d) The Water Authority and his officers and contractors, his or their workmen shall have free access at all times to the said area with necessary plant and vehicles for the purpose of laying, repairing and maintenance of water mains and all other services across, through or under it which the Water Authority may require or authorize.

Fire Safety

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

- (a) He has no in-principle objection to the application subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) The FSIs proposal submitted is acceptable. The applicant is advised that the installation / maintenance / modification / repair work of FSIs shall be undertaken by a Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation / maintenance / modification / repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to his department for consideration.

District Officer's Comments

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

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

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

- (a) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (c) Director of Electrical and Mechanical Services (DEMS); and
- (d) Commissioner of Police (C of P).

11. Public Comment Received During Statutory Publication Period

11.1 On 17.8.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 7.9.2018, one comment from a general public (**Appendix V**) was received.

11.2 The commenter objects to the application on the grounds that it is unacceptable to use a large space for parking; the Site could be used for temporary recreational or open space; long term use of parking facilities will have cumulative and negative impact on the quality of land and environs; and vehicles should be parked underground, in high rise towers, ground floor of houses/villa development or stacked facilities.

12. Planning Considerations and Assessments

12.1 The application is a renewal application for temporary car park for villagers (excluding container vehicle) for a period of two years. Although the development is not entirely in line with the planning intention of the “V” zone, which is primarily intended for development of Small Houses by indigenous villagers, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects, DLO/YL has advised that there is no Small House application approved or under processing at the Site. Approval of the application on a temporary basis would not jeopardise the long-term planning intention of the “V” zone. Besides, according to the applicant, the applied temporary car park is to serve the local villagers (**Appendix Ib**).

12.2 The development is considered not incompatible with the surrounding land uses which are rural in character predominated by residential dwellings/structures, fallow agricultural land, parking of vehicles, open storage yards and vacant/unused land. (**Plan A-2**).

- 12.3 The application is in line with the TPB PG-No. 34B in that previous approvals (Applications No. A/YL-PH/653, 703 and 737) for the same applied use were granted on 14.2.2014, 31.10.2014 and 14.10.2016 respectively (**Plan A-1** and paragraph 6 refer). All the approval conditions under the last application (No. A/YL-PH/737), including those related to the drainage and fire service installations aspects have been complied with. The current application is 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. There are also three similar applications for public vehicle park within the same “V” zone on the OZP approved by the Committee (**Plan A-1** and paragraph 7.2 refer). In this regard, favourable consideration can be given to the current renewal application.
- 12.4 Relevant departments consulted including DEP, CTP/UD&L of PlanD, CE/MN of DSD, D of FS and C for T have no adverse comment on the application. The Site is located close to the village houses (**Plan A-2**). To minimise the potential nuisance to the village houses, approval conditions restricting the type of vehicles parked on-site, the implementation of the car park layout and rules for operation of the car park, as well as requiring maintenance of existing mitigation measures (including the dimming of lights after 11:30 p.m. within the site and posting of notice and rules at prominent location of the site forbidding honking and engine noise when parking at the Site) implemented under the last approval to minimise any possible nuisance to the residents nearby are recommended in paragraph 13.2 (a) to (f) and (i) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. The applicant will also be advised to adopt the environmental mitigation measures as set out in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to alleviate any potential impact. The technical requirements of CTP/UD&L of PlanD, CE/MN of DSD and D of FS on landscape, drainage and fire safety aspects could be addressed by approval conditions in paragraph 13.2(j) to (m) below.
- 12.5 One objecting public comment was received during the statutory publication period as mentioned in paragraph 11 above. In this regard, the planning considerations and assessments above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comment in paragraph 11, the Planning Department considers that the temporary car park for villagers (excluding container vehicles) could be tolerated for a period of 2 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 2 years, and be renewed from 1.11.2018 until 31.10.2020. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations are allowed to be parked/stored on the Site at any time during the planning approval period;
- (b) the implementation of the car park layout plan for the use of the local villagers only, as proposed by the applicant, at all times during the planning approval period;
- (c) no more than 15 car parking spaces shall be provided on the Site, as proposed by the applicant, at any time during the planning approval period;
- (d) 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 at any time during the planning approval period;
- (e) a notice should be posted at a prominent location of the Site to indicate that 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 at all times during the planning approval period;
- (f) a notice should be posted at a prominent location of the Site to indicate the set of rules for using the development, as proposed by the applicant, at all times during the planning approval period;
- (g) a vehicular access of 4.5m in width within the Site, as proposed by the applicant, shall be maintained at all times during the planning approval period;
- (h) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;

- (i) the mitigation measures (including the dimming of lights after 11:30 p.m. within the Site and posting of notice and rules at prominent location of the site forbidding honking and engine noise when parking at the Site) implemented under the previous approval to minimize any possible nuisance of noise and artificial lighting on the Site to the residents nearby, as proposed by the applicant, shall be maintained at all times during the planning approval period;
- (j) all trees and vegetation within the Site shall be maintained at all times during the planning approval period;
- (k) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (l) 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 1.2.2019;
- (m) the implementation of the accepted 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 1.5.2019;
- (n) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g), (h), (i), (j) or (k) 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;
- (o) if any of the above planning conditions (l) or (m) 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
- (p) 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.

[The above approval conditions (a) to (p) are the same as those under the planning permission for previous Application No. A/YL-PH/737.]

Advisory clauses

The recommended advisory clauses are attached 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 “V” zone which is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission to justify 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.
- 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 8.8.2018
- Appendix Ia** SI received on 14.8.2018
- Appendix Ib** FI received on 12.9.2018 and 26.9.2018
- Appendix II** Relevant Extracts of Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34B)
- Appendix III** Previous applications covering the Site
- Appendix IV** Similar applications within the same “V” zone on the Pat Heung Outline Zoning Plan
- Appendix V** Public comment received during the statutory publication period

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| Appendix VI | Advisory Clauses |
| Drawing A-1 | Layout Plan with Landscape, Drainage and Fire Services Installation proposals |
| Drawing A-2 | Vehicular Access Plan |
| Plan A-1 | Location Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plans A-4a and A-4b | Site Photos |

**PLANNING DEPARTMENT
OCTOBER 2018**