

RNTPC Paper No. A/YL-PH/838
For Consideration by
the Rural and New Town
Planning Committee
on 29.5.2020

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/838

- Applicant** : Chief Force Limited
- Site** : Lot 303 (Part) in D.D. 110, Pat Heung, Yuen Long, New Territories
- Site Area** : 1,205m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Rural Workshop (Construction Machinery Repair Workshop) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application Site (the Site) for proposed temporary rural workshop (construction machinery repair workshop) for a period of three years. The Site is zoned “AGR” on the Pat Heung OZP and the proposed use is neither Column 1 nor Column 2 use in the “AGR” zone. According to the Notes of the OZP, temporary use or development of any land not exceeding a period of three years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is not subject to any previous application and is vacant with some temporary structures (**Plans A-2 and A-4a to 4b**).
- 1.2 According to the applicant, the proposed development involves one 2-storey structure (not more than 6m in height) with a total floor area of about 120m² for site office and staff rest room, and will provide parking spaces for 2 light goods vehicles. The operation hours are from 8:00 a.m. to 6:00 p.m. from Monday to Saturday, with no operation on Sundays and public holidays. The Site is accessible by a local track leading to Kam Tai Road and Kam Tin Road. The layout plan with Fire Service Installations (FSIs) proposal, landscape proposal,

drainage plan and vehicular access plan submitted by the applicant are at **Drawings A-1 to A-4**.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary planning statement and plans received on 3.4.2020 **(Appendix I)**
 - (b) Supplementary Information (SI) received on 6.4.2020 providing clarification **(Appendix Ia)**
 - (c) Further Information (FI) received on 4.5.2020 in response to departmental comments **(Appendix Ib)**
(exempted from publication requirement)
 - (d) FI received on 19.5.2020 in response to departmental comments **(Appendix Ic)**
(exempted from publication requirement)

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 at **Appendices I to Ic**. They can be summarized as follows:

- (a) The proposed development will meet the increasing local demand for repair of construction machinery as construction machinery cannot be sent to the Mainland for repairs amid the outbreak of pandemic. It can create more local jobs and support the local construction works.
- (b) The proposed rural workshop is temporary in nature and for repairing of small construction machinery. It will not jeopardize the long-term planning intention of the “AGR” zone. The Site has been used for rural workshop since 1985.
- (c) There will be landscape and fences along the boundary of the Site, and the proposed development will be compatible with the surroundings. No adverse environmental, traffic and drainage impacts will be induced. Landscaping, drainage facilities and fire service installations will be provided at the Site if planning approval is granted.

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

The applicant is not the “current land owner” of the Site 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 notice at the Site and sending notice to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is subject to two on-going planning enforcement actions (No. E/YL-PH/832 and E/YL-PH/833) against two unauthorized developments (UDs) involving storage use. Enforcement Notices were issued on 10.12.2019 requiring discontinuation of the UD. Subsequent site inspections revealed that the UD was discontinued. The Site will be kept under close monitoring for further action, if necessary.

5. **Previous Application**

The Site is not involved in any previous application.

6. **Similar Applications**

- 6.1 There are two similar applications involving workshop activities within the same “AGR” zone. Both were rejected. Details of the applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.
- 6.2 Applications No. A/YL-PH/228 (temporary open storage of vehicles with ancillary dismantling and repair works for a period of 12 months) and No. A/YL-PH/622 (temporary vehicle repair workshop for a period of 3 years) were rejected by the Committee or the Board on review in 1998 and 2012 respectively. They were rejected mainly for the reasons that the development was not in line with the planning intention of the “AGR” zone; it did not comply with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses”; there was insufficient information to demonstrate there would be no adverse drainage, environmental and landscape impacts on the surrounding areas; and approval of the application would set undesirable precedent for other applications which would lead to a general degradation of the environment of the area.

7. The Site and Its Surrounding Areas (Plans A-2 to A-4b)

7.1 The Site is:

- (a) vacant and paved with some temporary structures; and
- (b) accessible via a local track leading from Kam Tai Road and Kam Tin Road.

7.2 The surrounding areas are rural in character intermixed with vacant / unused land, cultivated farmland, residential dwellings / structures, vehicle park and open storage / storage yards (**Plan A-2**). Some of the open storage / storage yards are suspected unauthorized developments subject to enforcement action by the Planning Authority:

- (a) to the immediate east are vacant / unused land (one site with planning permission for temporary motor vehicle showroom). Further north and east are cultivated farmland, residential dwellings / structures, open storage / storage yards (one site with planning permission for sales of vehicle parts) and unused / vacant land;
- (b) to the immediate west is a storage yard and further west is unused land; and
- (c) to the south across a nullah are vacant / unused land, vehicle park (with planning permission) and open storage yards (one of them with planning permission).

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 are summarized as follows:

Land Administration

9.1.1 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) If the planning application is approved, the lot owner(s) will need to apply to his office to permit the structures 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. 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 rent or fee, as may be imposed by the LandsD.

Traffic

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

- (a) He has no comment on the application from traffic engineering perspective.
- (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 (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.

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

- (a) Part of Kam Tai Road is maintained by his office.
- (b) HyD shall not be responsible for the maintenance of any

access connecting the Site and the part of Kam Tai Road maintained by his office.

- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

There was no environmental complaint concerning the Site received in the past 3 years. The applicant is advised to follow the relevant mitigation measures and requirements in the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by DEP.

Landscape

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

- (a) She has reservation on the application from the landscape planning point of view.
- (b) Based on the aerial photo taken on 3.1.2018, the Site is situated in an area of disturbed rural landscape character comprising of scattered tree groups, open storage yards, temporary structures, village houses and abandoned farmlands. The Site is occupied with temporary structures and no existing tree is observed within the Site. Significant adverse impact on landscape resources within the Site is not anticipated.
- (c) While two planning applications (No. A/YL-PH/754 and 766) for temporary shop and services use were approved by the Committee to the east of the Site in 2017 and 2018 respectively, and one temporary car park use is also approved in 2020 to the further south of the Site (No. A/YL-KTN/694) (**Plan A-2**), no application for similar temporary workshop use within the "AGR" zone in proximity to the Site was approved. The proposed development is considered not entirely compatible with the landscape character of the area. Should the application be approved, it would set an

undesirable precedent of landscape character alteration, and would encourage more similar development within the area. The cumulative impact of such approval would further degrade the landscape quality of the surrounding environment.

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions on the submission of a revised drainage proposal, and implementation and maintenance of the drainage proposal for the development should be included.
- (c) His detailed comments on the submitted drainage proposal are at **Appendix III**

Fire Safety

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

- (a) He has no in principle objection to the proposal 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 FSI to be installed should be clearly marked on the layout plans.
- (c) Regarding the submitted FSIs proposal, all proposed and existing FSIs should be listed out in the form of FS notes, and clarification should be made on whether there is access for emergency vehicles being provided to reach 30m travel distance from all the enclosed structure(s).
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap.

123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) As there is no record of approval by the Building Authority (BA) for the structures existing at the Site, BD is not in a position to offer comments on their suitability for the applied use.
- (b) The applicant's attention is drawn to the following points:
 - (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the Building Authority (BA), they are unauthorised building works (UBW) under the BO and should not be designated for any proposed use under the application.
 - (ii) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing 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.
 - (iii) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
 - (iv) 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.
 - (v) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R

at the building plan submission stage.

Agriculture

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

The Site is currently paved vacant land occupied by several temporary structures. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as greenhouses, plant nurseries etc. He does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation.

District Officer's Comments

9.1.10 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.

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

- (a) Director of Electrical and Mechanical Services;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Commissioner of Police; and
- (d) Project Manager (West), Civil Engineering and Development Department.

10. Public Comments Received During Statutory Publication Period

On 14.4.2020, the application was published for public inspection. During the three-week statutory publication period, four public comments from Kadoorie Farm and Botanic Garden, World Wide Fund For Nature Hong Kong, Designing Hong Kong Limited and an individual (**Appendices IV-1 to IV-4**) were received. They objected to the application mainly on the grounds that the proposed development is not in line with the planning intention of the "AGR" zone; approval of the application would set an undesirable precedent for other similar applications; there is UD associated with the Site and the current application is to legitimize the UD via the "destroy first, build later" approach; and there is agricultural activity in the area.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary rural workshop (construction machinery repair workshop) for a period of 3 years at a site zoned “AGR”. The planning intention of the “AGR” zone is primarily 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 development is not in line with the planning intention of the “AGR” zone. DAFC does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.
- 11.2 The proposed development is considered not entirely compatible with the surrounding areas, which are rural in character and intermixed with vacant / unused land, cultivated farmland, residential dwellings / structures, open storage yards and vehicle park (**Plan A-2**).
- 11.3 CTP/UD&L, PlanD has reservation on the application from landscape planning point of view and considers that the proposed development is not entirely compatible with the landscape character of the area. Approval of the application would set an undesirable precedent of landscape character alteration, which would encourage more similar developments in the area and the cumulative impact of such approval would further degrade the landscape quality of the surrounding environment. Other relevant departments consulted, including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application.
- 11.4 The Site is not involved in any previous application. There are two similar applications within the same “AGR” zone on the Pat Heung OZP. Both were rejected on the grounds as detailed in paragraph 6.2 above.
- 11.5 Four public comments were received during the statutory public inspection period, objecting to the application as stated in paragraph 10 above. In this regard, relevant Government departments’ comments as well as planning assessments and considerations as stated above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the “AGR” zone, which is primarily 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. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis; and

- (b) the approval of the application would set an undesirable precedent for other similar applications in the “AGR” zone. The cumulative effect of approving such application would result in a general degradation of the rural environment of the area.

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 3 years until 29.5.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 8:00 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 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;
- (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 a revised 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 29.11.2020;
- (f) in relation to (e) above, the implementation of the revised 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 28.2.2021;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of 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 29.11.2020;

- (i) in relation to (h) above, the implementation of 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 28.2.2021;
- (j) if any of the above planning condition (a), (b), (c), (d) 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;
- (k) if any of the above planning condition (e), (f), (h) or (i) 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
- (l) 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 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 reason(s) 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 with supplementary planning statement and plans received on 3.4.2020
Appendix Ia	SI received on 6.4.2020
Appendix Ib	FI received on 4.5.2020

Appendix Ic	FI received on 19.5.2020
Appendix II	Similar applications within the same “AGR” zone on the Pat Heung OZP
Appendix III	Detailed comments of CE/MN of DSD
Appendices IV-1 to IV-4	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan with FSI proposal
Drawing A-2	Landscape Proposal
Drawing A-3	Drainage Plan
Drawing A-4	Vehicular Access Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MAY 2020**