

RNTPC Paper No. A/YL-PH/870
For Consideration by
the Rural and New Town
Planning Committee
on 22.1.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/870

Applicant : Chief Force Limited

Site : Lots 2007 (Part) and 2018 S.A (Part) in D.D. 111, Pat Heung, Yuen Long

Site Area : About 427m²

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 : Proposed Temporary Shop and Services (Retail Shop of Second-Hand Tyres) 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 shop and services (retail shop of second-hand tyres) for a period of 3 years. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within the “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently partly vacant and partly occupied by a temporary structure and parking of vehicles without planning permission (**Plans A-2 to A-4b**).
- 1.2 A small portion of the Site is subject to a previous application for temporary open storage of abandoned vehicles for stripping and vehicles parts, which was rejected by the Rural and New Town Planning Committee (the Committee) in 2000.
- 1.3 According to the applicant, two one to two-storey structures with a total floor area of 150m² and not more than 5.5m in height will be erected for site office, staff lounge and open shed. The operation hours will be 10 a.m. to 7 p.m. daily (excluding Friday). One car parking space for private car and one loading/unloading space for lights goods vehicles will be provided on-site. No

vehicles exceeding 5.5 tonnes will enter the Site. The Site is accessible from Kam Tin Road via a local track. The layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application form with supplementary statement and **(Appendix I)** plans received on 23.11.2020
- (b) Further Information (FI) received on 12.1.2021 and **(Appendix Ia)** 15.1.2021 in response to department comments and clarifying the proposed use
(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 statement in **Appendix I**. They can be summarized as follows:

The proposed development offers affordable sale of second-hand tyres of private vehicles and light goods vehicles to nearby villagers. It is a temporary use and would not jeopardize the long-term planning intention of the “V” zone. No workshop activities will be carried out on-site. Proper fire service installations will be provided at the Site. No adverse traffic impact is anticipated.

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

The applicant is not a “current land owner” but has complied with the requirement 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 and sending notice to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Member’s inspection.

4. Background

The Site is currently subject to an on-going planning enforcement action (No. E/YL-PH/844) against an unauthorised development (UD) involving storage use (**Plan A-2**). Enforcement Notice was issued on 23.6.2020 requiring discontinuation of the UD.

5. Previous Application

A minor portion of the Site is subject to a previous application No. A/YL-PH/338 for temporary open storage of abandoned vehicles for stripping and vehicles part for a period of 3 years submitted by a different applicant. The application was rejected by the Committee in 2000 mainly on the grounds that the development was not in line with the planning intention of the “V” zone; the development did not comply with Town Planning Board Guidelines for ‘Open Storage and Port Back-up Use’; there was no information to demonstrate that why suitable sites in the “Open Storage” (“OS”) zone could not be identified for the use and that the development would not have adverse drainage impact; and approval of the application would set an undesirable precedent for similar uses. Details of the previous application are summarized in **Appendix II** and the location of the site is shown on **Plan A-1**.

6. Similar Application

There is no similar application for shop and services use within the same “V” zone on the OZP.

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

7.1 The Site is:

- (a) paved and fenced;
- (b) partly vacant and partly occupied by a temporary structure and parking of vehicles without planning permission; and
- (c) accessible from Kam Tin Road via a local track.

7.2 The surrounding areas are rural in character intermixed with residential dwellings/structures, residential care homes for the elderly, vacant/unused lands, open storage yards:

- (a) to its north, east and west are residential dwellings/structures (the nearest is about 10m to its northwest), vacant/unused lands and open storage yards. To the further north are residential care home for the elderly; and
- (b) to the south in the “OS” zone are open storage yards.

8. Planning Intention

The planning intention of the “V” zone 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 the ground floor of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

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

- (a) The Site comprises 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) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structure(s) 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 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 rent or fee, as may be imposed by LandsD.
- (c) There is no Small House application approved or under processing at the Site.

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 the Transport Department. The land status of the local access road should be checked with 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/NT West, Highways Department (CHE/NTW, HyD):

- (a) His department shall not be responsible for the maintenance of any access connecting the Site and Kam Tin Road.
- (b) 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):

- (a) There was no environmental complaint concerning the Site received by DEP in the past three years.
- (b) 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.

Fire Safety

9.1.5 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 (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, detailed layout of structure B, with the locations of the fire extinguishers provided, shall be clearly shown. The applicant should clarify 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 (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.
- (e) The applicant is advised to observe Part XA, Dangerous Goods (General) Regulations, Cap. 295B, Laws of Hong Kong, regarding the storage of dangerous goods in Category 9A in excess of exempt quantity.

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 drainage proposal, implementation and maintenance of the drainage proposal to the satisfaction of the Director of Drainage Services or of the Board should be included.

Building Matters

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

- (a) As there is no record of approval granted by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) Before any new building works (including containers / open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the

co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO).

- (c) His detailed comments on UBW, provision of access, temporary or licenced structures, are at **Appendix IV**.
- (d) Detailed checking under the BO will be carried out at building plan submission stage.

District Officer's Comments

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

His office has not received any locals' comment on the application and he has no comment on the application.

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

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

10. Public Comment Received During Statutory Publication Period

On 4.12.2020, the application was published for public inspection. During the three-week statutory publication period, a public comment from an individual was received (**Appendix III**). The comment objects to the application mainly on the grounds that the proposed use would increase traffic flow and affect safety and living standard of the villagers.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary shop and services (retail shop of second-hand tyres) for a period of 3 years at the "V" zone. The planning intention of the "V" zone 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. The proposed use is not entirely in line with the planning intention of the "V" zone. Nevertheless, DLO/YL, LandsD advised that there is no Small House application approved or under processing at the Site. It is considered that temporary approval

of the application would not frustrate the long-term planning intention of the “V” zone.

- 11.2 The proposed use is considered not incompatible with the surrounding land uses which are intermixed with residential dwellings/structures, unused/vacant land and open storage yards. According to the applicant, the proposed development is intended to serve the nearby villagers.
- 11.3 Relevant departments consulted including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application. To minimize any environmental nuisance, approval conditions restricting the operation hour and prohibiting workshop activities are recommended in paragraph 12.2 (a) to (c) below. The applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (d) to (h) below.
- 11.4 The Site is subject to a previous application for temporary open storage use, which was rejected in 2000 as detailed in paragraph 5 above. The current application is for a different use. There is no similar application within the same “V” zone.
- 11.5 A public comment was received during the statutory publication period objecting to the application as mentioned in paragraph 10 above. In this regard, the departmental comments and planning assessments and considerations 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 comment mentioned in paragraph 10, the Planning Department has no objection to the proposed temporary shop and services (retail shop of second-hand tyres) for a period of 3 years.
- 12.2 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 until 22.1.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Fridays, 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 shall be carried out on 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 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 22.7.2021;
- (f) in relation to (e) 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 22.10.2021;
- (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 22.7.2021;
- (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 TPB by 22.10.2021;
- (j) if any of the above planning conditions (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; and
- (k) if any of the above planning conditions (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.

Advisory Clauses

The advisory clauses are in **Appendix IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Member's reference:

the proposed 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 for a departure from the planning intention, even on a temporary basis.

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 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.
- 13.3 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.

14. Attachments

Appendix I	Application form with supplementary statement and plans received on 23.11.2020
Appendix Ia	Further Information received on 12.1.2021 and 15.1.2021
Appendix II	Previous application covering the application site
Appendix III	Public comment
Appendix IV	Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan with previous application
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2021**