

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-PH/799**

<b><u>Applicant</u></b>	: Chief Force Limited
<b><u>Site</u></b>	: Lots 60 (Part), 61 (Part) and 62 (Part) in D.D. 114, Pat Heung, Yuen Long
<b><u>Site Area</u></b>	: About 3,002 m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: Proposed Temporary Public Vehicle Park (excluding container vehicle) 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 public vehicle park (excluding container vehicle) for a period of 3 years. The Site is vacant and partly covered by grass (**Plans A-2 to A-4**).
- 1.2 The Site was involved in four previous applications (No. A/YL-PH/333, 401, 758 and 791) for proposed temporary open storage, temporary public vehicle park (private cars, lorries and coaches) or temporary shop and services (second-hand motor vehicles showroom). They were all rejected by the Rural and New Town Planning Committee (the Committee) or the Town Planning Board (the Board) on review between 2000 and 2018.
- 1.3 According to the applicant, 30 private car or light goods vehicle parking spaces will be provided within the Site. The operation hours are 24 hours daily. No workshops activities will be carried out at the Site and no medium or heavy goods vehicles exceeding 5.5 tonnes will be parked at the Site. The Site is accessible via a local track branching off Kam Tin Road. The layout plan with landscape and fire services installations proposals and vehicular access plan submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary statement and plans received on 28.11.2018 **(Appendix I)**
  - (b) Supplementary Information (SI) submitted on 4.12.2018 with a revised supplementary statement **(Appendix Ia)**
  - (c) SI submitted on 6.12.2018 clarifying the operation hours **(Appendix Ib)**
  - (d) Further Information (FI) received on 31.12.2018 in response to departmental comments **(Appendix Ic)**
  - (e) FI received on 2.1.2019 with a revised landscape plan **(Appendix Id)**
  - (f) FI received on 4.1.2019 in response to departmental comments **(Appendix Ie)**

## **2. Justifications from the Applicant**

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

- (a) The proposed use can provide parking spaces for the residents and workers in the vicinity and can alleviate traffic congestion by reducing vehicles parked on the roadside.
- (b) Proper landscaping and fire services installations will be provided on-site. No adverse traffic impact is anticipated. There are also similar applications approved in North and Yuen Long districts.

## **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 site notice and sending registered mail to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

## **4. Background**

The Site was the subject of a previous enforcement case (No. E/YL-PH/753) against an unauthorized development (UD) involving the use for open storage. An Enforcement Notice was issued on 8.2.2017. Subsequent site inspection revealed that the UD has been discontinued. The Compliance Notice was issued on 10.5.2018.

## **5. Previous Applications**

- 5.1 The Site was involved in four previous applications (No. A/YL-PH/333, 401, 758 and 791) for various uses submitted by different applicants of the current application, which were all rejected. Details of the applications are summarized in **Appendix II** and the location of the sites are shown on **Plan A-1b**.
- 5.2 Applications No. A/YL-PH/333 and 401, covering the eastern portion of the Site and its adjoining area, for temporary open storage of vehicles and vehicle parts prior to sale and temporary open storage of vehicles and vehicle parts were rejected by the Committee on 30.6.2000 and the Board on review on 4.10.2002 respectively mainly on the grounds that the developments were not in line with the planning intention of the “AGR” zone; the developments were not compatible with the surrounding area; there was insufficient information to demonstrate the development would not have adverse drainage impact (for Application No. A/YL-PH/333 only); and approval of the applications would set undesirable precedents for similar uses to proliferate into the “AGR” zone.
- 5.3 Application No. A/YL-PH/758, covering a major portion of the Site, for proposed temporary public vehicle park (private cars, lorries and coaches) was rejected by the Board on review on 9.3.2018 mainly on the grounds that the development was not in line with the planning intention of the “AGR” zone; the applicant failed to demonstrate the development would not have adverse environmental impact; and approval of the application would set an undesirable precedent for similar uses to proliferate into the “AGR” zone.
- 5.4 Application No. A/YL-PH/791, covering the same Site as the current application, for proposed temporary shop and services (second-hand motor vehicles showroom) was rejected by the Committee on 5.10.2018 mainly on the ground that the development was not in line with the planning intention of the “AGR” zone.

## **6. Similar Application**

There is no similar application for the proposed use within the subject “AGR” zone.

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

- 7.1 The Site is:
  - (a) vacant and partly covered by grass; and
  - (b) accessible via a local track branching off Kam Tin Road.
- 7.2 The surrounding areas are intermixed with plant nurseries, cultivated agricultural land, a residential dwelling/structure, open storage/ storage yards and vacant/unused land. Most of the open storage yards within the “AGR” zone are suspected unauthorised development subject to enforcement action by the Planning Authority:

- (a) to its north are vacant/unused land and cultivated agricultural land and further north are open storage yards within the “Open Storage” (“OS”) zone;
- (b) to its east is vacant land and further east are open storage/ storage yards within the “OS” zone. A residential dwelling/structure is located at its northeast;
- (c) to its south are plant nurseries; and
- (d) to its west are a plant nursery, open storage/ storage yards and vacant land.

## **8. Planning Intention**

The planning intention of the “AGR” zone is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

## **9. Comments from Relevant Government Departments**

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

### **Land Administration**

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

- (a) The Site comprises Old Scheduled 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) The Site is accessible from Kam Tin 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.
- (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed the relevant airfield height limit within SKAHRA.
- (d) Should planning approval be given to the application, 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. 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 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**

#### 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. 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/NT West, Highways Department (CHE/NTW, HyD):

- (a) His department does not and will not maintain the accesses 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 received for the Site 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.

### **Landscape**

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

- (a) She has some reservations on the application from the landscape planning perspective.
- (b) The Site is connected to Kam Tin Road via a paved driveway to the north. Small Houses are concentrated within “V” zone to the further north of the Site. The Site is the subject of four previous planning applications for various open storage, public vehicle park or shop and services uses. The last application (No. A/YL-PH/791) for temporary shop and services (second-hand motor vehicles showroom) use was rejected by the Committee on 5.10.2018, to which she had some reservations from the landscape planning perspective.
- (c) Referring to the aerial photo taken in March 2018, the Site is situated in an area of rural landscape character comprising scattered tree groups and open storages. Although the proposed use is not in line with the planning intention of “AGR” zone, it is not incompatible to the surrounding environment.
- (d) With reference to the site visit in August 2018, the Site is vacant and hard paved. No existing tree is recorded within the Site. Although adverse impact to landscape resources arising from the proposed use is not anticipated, approval of the application would set an undesirable precedent to encourage such unauthorized removal of vegetation. The cumulative effect would result in degradation of landscape character and cause adverse impact on landscape resources.
- (e) Detailed comments are at **Appendix III**.

### **Agriculture**

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

Although the Site is paved, agricultural infrastructures such as road access and water source are available. Agricultural activities are active in the vicinity. He does not support the application from agricultural point of view as the Site possesses a potential for agricultural rehabilitation such as be used for greenhouse cultivation or plant nursery.

### **Drainage**

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

- (a) He has no in-principle objection to the proposed development.
- (b) Should the application be approved, approval conditions requiring the submission of a drainage proposal for the development and implementation and maintenance of the drainage proposal should be included in the planning permission.

### **Fire Safety**

#### 9.1.8 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) The fire service installations proposal submitted by the applicant is considered acceptable to his department. The applicant is advised that installation/ maintenance/ modification/ repair work of FSI shall be undertaken by an 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 him.

### **Water Supply**

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

- (a) He has no objection to the application.
- (b) For provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the installation, operation and maintenance of any sub-main within the private lots to WSD's standards.

### **Building Matters**

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

Noting that there is no proposed building works on the Site, he has no comment under the Buildings Ordinance.

### **District Officer's Comments**

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

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

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

- (a) Project Manager(West), Civil Engineering and Development Department (PM(W), CEDD);
- (b) Director of Electrical and Mechanical Services (DEMS); and
- (c) Commissioner of Police (C of P).

## **10. Public Comments Received During Statutory Publication Period**

On 7.12.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 28.12.2018, three public comments were received from World Wide Fund for Nature Hong Kong, Kadoorie Farm & Botanic Garden Corporation and a general public objecting the application (**Appendices IV-1 to IV-3**) mainly for the reasons that the proposed use is not in line with the planning intention of the "AGR" zone; the Site is suspected to be associated with unauthorized development and "destroyed first, develop later" case; the Site is subject to four rejected applications (**Plan A-1b**); approval of the application would set an undesirable precedent; and there is no justification for the current application.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary public vehicle park (excluding container vehicle) at a site zoned "AGR". The planning intention of the "AGR" zone is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and also 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 has potential for agricultural rehabilitation. No strong planning justification has been given in the submission to justify for a departure from the planning intention, even on a temporary basis.
- 11.2 The surrounding areas are intermixed with plant nurseries, cultivated agricultural land, a residential dwelling/structure, open storage/ storage yards and vacant/unused land. While there are some open storage yards within the "AGR" zone (**Plan A-2**), most of them are suspected unauthorized developments subject to enforcement action by the Planning Authority. CTP/UD&L of PlanD has some reservations on the application as approval of the application would set an undesirable precedent to encourage unauthorized removal of vegetation, and cumulative effect would result in degradation of



landscape character and cause adverse landscape impact on landscape resources.

- 11.3 Four previous applications for temporary open storage (No. A/YL-PH/330 and 401), public vehicle park (No. A/YL-PH/758) and shop and services (No. A/YL-PH/791) uses were all rejected by the Committee or the Board in 2000, 2002 and 2018 with similar grounds stated in paragraphs 5.2 and 5.3 above. There is no similar application for public vehicle park within the same “AGR” zone on the OZP. The approval of the current application would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such applications would result in general degradation of the rural environment of the area.
- 11.4 Three public comments objecting to the application were received as stated in paragraph 10 above. In this regard, the planning assessments and considerations above are relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments 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 to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. This zone is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis; and
  - (b) the approval of the application, even on a temporary basis, would set an undesirable precedent for other similar applications to proliferate into 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 18.1.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) 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;

- (b) 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;
- (c) 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;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on 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 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 18.7.2019;
- (g) in relation to (f) 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 18.10.2019;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the implementation of the accepted fire services 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 18.7.2019;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e) or (h) 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 conditions (f), (g) 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 attached at **Appendix V**.

**13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to reject the application, Members are invited to advise what 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**

<b>Appendix I</b>	Application form with supplementary statement and plans received on 28.11.2018
<b>Appendix Ia</b>	SI submitted on 4.12.2018 with a revised supplementary statement
<b>Appendix Ib</b>	SI submitted on 6.12.2018 clarifying the operation hours
<b>Appendix Ic</b>	FI received on 31.12.2018 in response to departmental comments
<b>Appendix Id</b>	FI received on 2.1.2019 with a revised landscape plan
<b>Appendix Ie</b>	FI received on 4.1.2019 in response to departmental comments
<b>Appendix II</b>	Previous s.16 applications covering the application site
<b>Appendix III</b>	Detailed comments of CTP/UD&L, PlanD
<b>Appendices IV-1 to IV-3</b>	Public comments received during the statutory publication period
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Vehicular Access Plan
<b>Plan A-1a</b>	Location Plan

<b>Plan A-1b</b>	Previous Application Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
JANUARY 2019**