

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/849

- Applicant** : Chief Force Limited represented by Top Bright Consultants Limited
- Site** : Lot 139 RP (Part) in D.D. 108, Fan Kam Road, Pat Heung, Yuen Long, New Territories
- Site Area** : About 1,019 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Residential (Group D) (“R(D)”)”
[maximum plot ratio of 0.2 and building height of 2 storeys (6m)]
- Application** : Proposed Temporary Public Vehicle Park (Private Cars only) with Ancillary Site Office 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 (private cars only) with ancillary site office for a period of 3 years. According to the Notes of the OZP, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use within the “R(D)” zone, which requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site is the subject of six previous applications for various open storage use. All of them were rejected by the Rural and New Town Planning Committee (the Committee) or the Board on review between 1998 and 2018. The Site is currently paved and vacant (**Plan A-2 and A-4**)
- 1.3 According to the applicant, a total of 22 parking spaces for private car will be provided on-site. One single-storey structure (2.5m high) with a total floor area of about 15m² will be erected for ancillary office use. The operation hours will be 24 hours daily. The Site is accessible to Fan Kam Road via a local track. The site 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 plans received on 13.7.2020 **(Appendix I)**
- (b) Further Information (FI) dated 21.8.2020 in response to departmental comments **(Appendix Ia)**
(exempted from publication requirement)
- (c) FI dated 31.8.2020 in response to departmental comments **(Appendix Ib)**
(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 and FIs at **Appendices I to Ib**, and are briefly summarized as follows:

- (a) In view of the soaring use of private cars in the past months due to coronavirus pandemic, the proposed development aims to facilitate the drivers from the neighborhood, which includes the residents from the northeast side of the Site and the workers of the nearby workshops, storage/open storage facilities. The public transportation service in the area is limited and there is a genuine need for commuting by private cars. Currently the cars are parked at road side causing nuisance to other users of the road. The proposed development offers a temporary solution to meet demand for public vehicle park in Ta Shek Wu area. Supports from the local villagers have been obtained.
- (b) Temporary use of the proposed development would not frustrate the long-term planning intention, and can efficiently utilize land resources. The proposed development is compatible with the surrounding land uses which are predominantly open storage and port back-up uses. No adverse environmental and traffic impact are anticipated on the surrounding areas.

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

The applicant is not the “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 section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to any active enforcement action.

5. Previous Applications

The Site is the subject of six previous applications for various temporary open storage uses. All of them were rejected by the Committee or by the Board on review between 1998 and 2018 (the last application No. A/YL-PH/760 was dismissed by the Appeal Board in 2019) mainly on the grounds that the proposed development was not in line with the planning intention of the “R(D)” zone; not compatible with the surrounding areas; there was insufficient information to demonstrate that there would not be adverse drainage and/or environmental impacts; the proposed development did not comply with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses”; and approval of the application would set an undesirable precedent. Details of the applications are summarized in **Appendix II** and their locations are shown on **Plan A-1b**.

6. Similar Applications

- 6.1 There are sixteen similar applications for various parking uses in the same “R(D)” zone. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.

Nine approved applications

- 6.2 Nine applications for temporary public car park without medium goods vehicles/ container vehicles were approved with conditions by the Committee between 1997 and 2017 mainly on the considerations that temporary approval of the application would not frustrate the long-term planning intention of the “R(D)” zone; the proposed development was not incompatible with the surroundings; no adverse environmental impacts were anticipated; relevant departments consulted had no adverse comments on the application; and concerns of relevant departments could be addressed by approval conditions. Planning permission of five applications were revoked due to non-compliance with approval conditions.

Seven rejected applications

- 6.3 The other seven applications for temporary vehicle park involving private car/ lorry/ coach/ heavy vehicles/ tractor/ container vehicles (with/ without open storage) were rejected by the Committee or the Board on review between 1994 and 2020. They were rejected mainly for the reasons that the proposed development was not in line with the planning intention of the “R(D)” zone; it did not comply with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-Up Uses”; it was not compatible with the surrounding areas; there was insufficient information to demonstrate the development would not cause adverse environmental/ landscape/ drainage/ traffic impacts on the surrounding areas; and approval of the application would set an undesirable precedent.

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

7.1 The Site is:

- (a) paved and vacant; and
- (b) accessible to Fan Kam Road via a local track.

7.2 The surrounding area is rural in character intermixed with residential dwellings/ structures, open storage/ storage yards, orchard, parking of vehicles and vacant/unused land. Some of them are suspected unauthorized development subject to planning enforcement action by the Planning Authority:

- (a) to its northeast are residential structures/dwellings, open storage/storage yards and vacant/ unused land;
- (b) to its north across Fan Kam Road are densely vegetated slopes zoned “Conservation Area” (“CA”); and
- (c) to its south are an orchard and vegetated land in “CA” zone. To its further southeast are parking of vehicles and open storage yard with valid planning permission.

8. Planning Intention

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

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 of 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) Should planning approval be given to the planning application, 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 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/New Territories West, Highways Department (CHE/NTW of HyD):

- (a) HyD shall not be responsible for the maintenance of 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

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

- (a) 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.
- (b) There is no environmental complaint concerning the Site received

by DEP in the past three years.

Landscape

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

- (a) She has no objection to the application from landscape planning perspective.
- (b) Based on the aerial photo taken in 2019, the Site is situated in an area of rural landscape character comprising scattered of trees, temporary structures and open storages. The proposed use is not entirely incompatible with the landscape character of the area. The Site is partly paved and partly covered with self-seeded groundcovers. No existing tree is found within the Site. Significant adverse impact on landscape resources within the Site arising from the propose development is not anticipated.

Drainage

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

- (a) He has no objection in principle to the proposed development form the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development 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 of BD):

- (a) 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 Building Authority (BA) should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) 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.

- (c) 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.
- (d) 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 the Regulation 19(3) of the B(P)R at the building plan submission stage.

Fire Safety

9.1.8 Comment of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations 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) The applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Water Supplies

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

- (a) He has no objection to the application.
- (b) The proposed development encroaches onto an existing 10m wide waterworks reserve (WWR) (**Plan A-2**). No structure shall be erected over this waterworks reserve and such area shall not be used for storage purposes.
- (c) 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 the waterworks reserve are required to seek prior authorization from the Water Authority.

- (d) Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.

District Officer's Comments

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

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

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

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

10. Public Comments Received During the Statutory Publication Period

On 21.7.2020, the application was published for public inspection. During the three-week statutory publication period, two public comments (**Appendices IV-1 to IV-2**) were received from individuals. The comments object to the application mainly on the grounds that the proposed use will increase the traffic flow and adversely affect the environment and the safety of the pedestrian; the Site is suspected to be used for open storage; and there is no justification to approve brownfield activity near "CA" zone.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary public vehicle park (private cars only) with ancillary site office for a period of 3 years at "R(D)" zone. The planning intention of the "R(D)" zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. The proposed use is not entirely in line with the planning intention of the "R(D)" zone. Nevertheless, there is no known programme for permanent development at this part of the "R(D)" zone. It is considered that approval of the application on a temporary basis would not frustrate the long-term planning intention of the "R(D)" zone.

- 11.2 The proposed public car park involves parking of private cars and is considered not incompatible with the surrounding area which is rural in character intermixed with residential dwellings/ structures and vacant/unused land. According to the applicant, the proposed use can satisfy some of the local parking demand.
- 11.3 Relevant departments consulted including C for T, DEP, CTP/UD&L of PlanD, CE/MN of DSD and D of FS have no adverse comment on the application. To minimize any possible environmental nuisance generated by the development, approval conditions restricting the types of vehicles are recommended in paragraph 12.2 (a) to (c) below. The applicant would 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 paragraphs 12.2 (d) to (i).
- 11.4 The Site is the subject of six previous applications for various temporary open storage uses. All of them were rejected by the Committee or the Board on review between 1998 to 2018. The current application is for a different use. There are sixteen similar applications for public vehicle park within the same “R(D)”, with 9 approved and 7 rejected. All the approved similar applications were for temporary public car park without medium goods vehicles/ container vehicles, while the rejected applications were for temporary vehicle park involving private car/ lorry/ coach/ heavy vehicles/ tractor/ container vehicles. As the current application only involves parking of private cars, approval of the current application is in line with the Committee’s previous decision on the similar applications.
- 11.5 Two public comments were received during the statutory inspection period, objecting to the application as stated in paragraph 10 above. In this regard, the departmental comments and planning considerations and assessments 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 above, the Planning Department has no objection to the proposed temporary public vehicle park (private cars only) with ancillary site office 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 4.9.2023. 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 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 4.3.2021;
- (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 4.6.2021;
- (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 4.3.2021;
- (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 Town Planning Board by 4.6.2021;
- (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; and
- (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.

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

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

the planning intention, even on a temporary basis.

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 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 13.7.2020
Appendix Ia	FI dated 21.8.2020
Appendix Ib	FI dated 31.8.2020
Appendix II	Previous applications
Appendix III	Similar applications within the same “R(D)” zone
Appendices IV-1 to IV-2	Public comment received during the statutory publication period
Appendix V	Advisory clauses
Drawing A-1	Layout Plan
Plans A-1a to 1b	Location Plan with previous and similar applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos