

RNTPC Paper No. A/YL-KTN/710
For Consideration by
the Rural and New Town
Planning Committee
on 10.7.2020

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

APPLICATION NO. A/YL-KTN/710

<u>Applicant</u>	: Chief Force Limited
<u>Site</u>	: Lots 376 RP (Part), 380 RP (Part) and 384 RP (Part) in D.D. 110, Kam Tin North, Yuen Long
<u>Site Area</u>	: About 860 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Renewal of Planning Approval for Temporary Private Vehicle Park for Light Goods Vehicles for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to use the application site (the Site) for temporary private vehicle park for light goods vehicles for a period of 3 years. The Site is zoned “AGR” and the applied use is neither a Column 1 nor Column 2 use in the “AGR” zone. According to the Notes of the OZP, temporary use or development 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 paved, fenced and currently used for parking of vehicles (**Plans A-2 to A-4**).
- 1.2 The Site was the subject of five previous applications for various open storage and vehicle park uses. The last application (No. A/YL-KTN/563) for the same applied use was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 14.7.2017 for a period of 3 years up to 14.7.2020. All the approval conditions have been complied with.

- 1.3 According to the applicant, a total of 10 parking spaces for light good vehicles not exceeding 5.5 tonnes will be provided within the Site. There will be a one-storey temporary structure with total floor area of 15m² and building height of 2.5m for office and staff restroom uses. No dismantling, maintenance, repairing, cleansing, painting-spraying or workshop-related activity will be carried out within the Site. The operation hours are between 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays. There will be no operation on Sundays and public holidays. The Site is accessible via a local track branching off Kam Tai Road. The layout plan with landscaping, drainage and fire services installations proposals and vehicular access plan submitted by the applicant are in **Drawings A-1 and A-2**.
- 1.4 When compared with the last approved application (No. A/YL-KTN/563), the current application submitted by the same applicant is the same in terms of use, number of parking spaces and total floor area, except that the site area is reduced by 40m² (-4.4%).
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with planning statement and plans (Appendix I)
received on 12.5.2020
 - (b) Supplementary Information received on 19.5.2020 (Appendix Ia)
 - (c) Further Information (FI) received on 3.7.2020 in (Appendix Ib)
response to departmental comments
[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 in **Appendix I**. They can be summarized as follows:

- (a) There is no residential use within 100m of the Site. The nearby uses are mostly open storage. The applied use is compatible with the surrounding uses.
- (b) The applied use is the same as the last application (No. A/YL-KTN/563), which was not subject to adverse departmental comments or public complaints. The applicant has complied with all the approval conditions under the last application.
- (c) No adverse traffic impact is anticipated. The landscaping, drainage facilities and fire services installations at the Site will be properly maintained. The applicant will comply with all the approval conditions if the application is approved.

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 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. 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. 34C) are relevant to this application. The relevant assessment criteria are attached at **Appendix II**.

5. Background

The Site is currently not the subject of any active planning enforcement case.

6. Previous Applications

- 6.1 The Site was involved in five previous applications for open storage and vehicle park uses. Details of these applications are summarized in **Appendix III** and their locations are shown on **Plan A-1b**.

One Approved Application

- 6.2 Application No. A/YL-KTN/563 for the same use as the current application submitted by the same applicant was approved with conditions by the Committee on 14.7.2017 mainly on the grounds that approval on temporary basis would not jeopardise the long-term planning intention of the “AGR” zone; the development was not incompatible with the surrounding land uses; and relevant departments (except the Director of Agriculture, Fisheries and Conservation) had no adverse comment on the application. The planning permission of the application is valid until 14.7.2020 and all approval conditions have been complied with.

Four Rejected Applications

- 6.3 Four applications (Nos. A/YL-KTN/130 and A/YL-KTN/149 covering the southern part of the Site, No. A/YL-KTN/161 covering the middle part of the Site and No. A/YL-KTN/263 covering a much larger site) for various temporary open storage uses for a period of 2 to 3 years were rejected by the Committee or the Board on review between 2001 and 2007. They were rejected for similar reasons that the proposed development was not in line with the planning intention of the “AGR” zone and was not compatible with the surrounding areas; the

development did not comply with the Town Planning Guidelines for Open Storage and Port Back-up Uses in that residential dwellings were located in close proximity/ no previous approval was granted at the site/ there were adverse comments from concerned departments; there was no information to demonstrate why suitable sites within areas zoned “Industrial (Group D)” (“I(D)”) and “Open Storage” (“OS”) would not be available; there was insufficient information to demonstrate that the development would not have adverse traffic, drainage and environmental impacts; and approval of the application would set an undesirable precedent.

7. Similar Applications

- 7.1 There are 11 similar applications involving three sites for temporary vehicle park use within the same "AGR" zone on Kam Tin North OZP. Details of the applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1a**.

Ten Approved Applications

- 7.2 Ten applications on two sites for temporary private vehicle park for light/ medium goods vehicles (with/ without storage of construction materials) were approved with conditions by the Committee between 2011 and 2020 mainly on the grounds that approval on temporary basis would not jeopardize the long-term planning intention of the “AGR” zone; the developments were not incompatible with the surrounding land uses; the relevant departments had no adverse comment and the technical concerns could be addressed by appropriate approval conditions. However, planning permissions for 3 applications were revoked due to non-compliance with approval conditions.

One Rejected Application

- 7.3 Application No. A/YL-KTN/99 for temporary private car and lorry park and storage of miscellaneous goods located to the further west of the Site was rejected by the Committee in 1999 mainly for the reasons that the proposed development was not in line with the planning intention of "AGR" zone; not compatible with the agricultural land and village houses in the vicinity; there was no information to demonstrate the developments would not cause adverse drainage impacts on the surrounding areas; and the approval of the application would set an undesirable precedent.

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

- 8.1 The Site is:

- (a) paved, fenced and currently used for parking of vehicles; and
- (b) accessible via a local track branching off Kam Tai Road.

- 8.2 The surrounding area is rural in character intermixed with open storage/storage yards, parking of vehicle, workshop, warehouse, residential structure/dwelling, an orchard and vacant/unused land. Some of open storage/storage yards and workshop are suspected unauthorised development subject to enforcement action by the Planning Authority (**Plan A-2**):
- (a) to its immediate east is an open storage for construction machinery (approved under Application No. A/YL-PH/825) within the “AGR” zone on the Pat Heung OZP. There is a grave and vacant/unused land to its further east;
 - (b) to its immediate south is vacant land and to its further south within the “OS” zone are open storage yards, vehicle workshop and an orchard; and
 - (c) to its immediate north is a car park for light goods vehicle (approved under Application No. A/YL-KTN/694) and open storage yards to its further north. To its immediate west is vacant land, a residential dwelling/structure and further west are open storage yard, carpark and warehouses (all with planning permissions) and a residential dwelling/ structure.

9. 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.

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 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) Should planning approval be given to the 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

10.1.2 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 his 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) Part of Kam Tai Road is maintained by his office.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and the part of Kam Tai Road maintained by his department.
- (c) 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 conceiving the Site received in the past three 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

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

- (a) He has no objection to the application from the landscape planning point of view.
- (b) Based on the aerial photo in 2019, the Site is situated in an area of disturbed rural landscape character comprising scattered tree groups, temporary structures, vehicle parks and open storage. The applied use is considered not entirely incompatible with the surrounding environment.
- (c) With reference to site photos taken in 2020, the Site is in operation as vehicle park. Existing landscape plantings are in acceptable condition. Comparing the aerial photos taken in 2017 and 2019, there is no significant change to the surrounding landscape setting since the application was last approved. Further significant adverse impact on landscape resources due to the development is not anticipated.
- (d) Should the application be approved, an approval condition on maintenance of the existing trees and landscape plantings within the Site in a healthy condition at all times during planning approval period is recommended.

Agriculture

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

Considering that the previous application for the same use as the current application was approved by the Board, he has no strong view against the application for renewal of planning approval.

Drainage

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

- (a) He has no objection in-principle to the development.
- (b) Presumably, the applicant would maintain the same drainage facilities as those implemented under the previous Application No. A/YL-KTN/563.

- (c) Should the application be approved, approval conditions requiring the maintenance of drainage facilities implemented under Application No. A/YL-KTN/563 and submission of records of the existing drainage facilities on site should be included.

Fire Safety

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

He has no in-principle objection to the renewal application subject to the existing fire service installations (FSIs) implemented on the Site being maintained in efficient working order at all times.

Building Matters

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

- (a) There is no record of approval by the Building Authority (BA) for the existing structures at the Site and he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's 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.
- (d) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) 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.

- (f) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

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 / no objection to the application:

- (a) Chief Engineer / Railway Development 2-2, Railway Development Office, Highways Department;
- (b) Chief Estate Surveyor / Railway Development, Lands Department;
- (c) Chief Engineer / Construction, Water Supplies Department;
- (d) Director of Electrical and Mechanical Services;
- (e) Project Manager (West), Civil Engineering and Development Department ; and
- (f) Commissioner of Police.

11. Public Comments Received During Statutory Publication Period

On 26.5.2020, the application was published for public inspection. During the three-week statutory publication period, two public comments from a member of Yuen Long District Council and an individual were received. Both object to the application mainly on the grounds that the development would cause irreversible damage to the agricultural land; priority should be given to the use of brownfield or disturbed sites for the development; approval of the application would set an undesirable precedent for similar cases; agricultural land should be preserved for the production of fresh produce; and approval of brownfield use will hinder long-term development (**Appendices V-1 and V-2**).

12. Planning Considerations and Assessments

12.1 The application is for renewal of planning permission for temporary private vehicle park for light goods vehicles in "AGR" zone. 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 applied use is not in line with the planning intention of the "AGR" zone. Nevertheless, DAFC has no strong view on the application. It is considered that

approval of the application on a temporary basis would not frustrate the long-term planning intention of the “AGR” zone.

- 12.2 The development is considered not incompatible with the surrounding land uses which are intermixed with open storage/storage yards, parking of vehicles, workshop, warehouse, residential structure/dwelling, an orchard and vacant/unused land.
- 12.3 The application is in line with TPB PG-No. 34C in that previous approval (Application No. A/YL-KTN/563) for the same applied use was granted on 14.7.2017 and all the approval conditions under the last application have been complied with. Compared with the last approved application, the current application is the same in terms of use, number of parking spaces and total floor area (except with a slight reduction of site area (-40m²/-4.4%)). Besides, there is no major change in planning circumstances since the last approval.
- 12.4 Concerned departments consulted have no adverse comment on the application. To minimize the possible environmental nuisance, approval conditions restricting the operation hours and types of vehicles are recommended in paragraph 13.2(a) to (e) below. The applicant will also be advised to adopt mitigation measures and requirements as set out in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. Other technical requirements of C for T, CE/MN of DSD and D of FS can be addressed by imposing approval conditions recommended in paragraphs 13.2 (f) to (i) below.
- 12.5 Two public comments objecting to the application were received during the statutory publication period as detailed in paragraph 11 above. In this regard, the departmental comments and planning considerations and assessments as stated above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department considers that the temporary private vehicle park for light goods vehicles could be tolerated for a period of 3 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 3 years and be renewed from 15.7.2020 to 14.7.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 6:00p.m. and 9:00a.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 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;
- (d) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container trailers/tractors, 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 trailers/tractors, 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) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (g) the existing trees and landscape plantings on the Site shall be maintained at all times during the planning approval period;
- (h) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of the record 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 15.10.2020;
- (j) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (k) if any of the above planning condition (a), (b), (c), (d), (e), (f), (g), (h) or (j) 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;
- (l) if the above planning condition (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

- (m) 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 are similar to those under the last Application No. A/YL-KTN/563, exemption deletion / change of those on boundary fencing, landscape, drainage and FSIs based on the comments of CTP/UD&L of PlanD, CE/MN of DSD and D of FS.]

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 "AGR" zone which is primarily 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.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for the renewal of the planning approval.
- 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 planning statement and plans received on 12.5.2020
Appendix Ia	Supplementary Information received on 19.5.2020
Appendix Ib	FI received on 3.7.2020

Appendix II	Relevant extract of TPB PG-No. 34C
Appendix III	Previous s.16 applications covering the Site
Appendix IV	Similar applications within the same “AGR” zone on the approved Kam Tin North OZP
Appendices V-1 and V-2	Public comments received during the statutory publication period
Appendix VI	Advisory clauses
Drawing A-1	Layout Plan with landscaping, drainage and fire services installations proposal
Drawing A-2	Vehicular Access Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2020**