

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/839

- Applicant** : Chief Force Limited
- Site** : Lot 2743 (Part) in D.D. 111, Pat Heung, Yuen Long
- Site Area** : About 321 m²
- 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** : Renewal of Planning Approval for Temporary Shop and Services (Provision Store) 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 shop and services (provision store) for a period of 3 years. According to the Notes of the OZP, ‘Shop and Services’ is Column 2 use within the “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is fenced, hard-paved and currently occupied by structures under a shelter (**Plans A-2 to A-4b**).
- 1.2 The Site is the subject of a previous planning application (No. A/YL-PH/744) for the same applied use submitted by the same applicant, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 23.6.2017. All the approval conditions have been complied with and the planning permission is valid until 23.6.2020.
- 1.3 According to the applicant, the development involves two single-storey structures for provision store and storage uses under an open shelter (6m high) with a total floor area of about 60 m². One loading / unloading space for light goods vehicle not exceeding 5.5 tonnes will be provided within the

Site. The operation hour is from 9 a.m. to 10 p.m. daily. The Site is accessible via a local road leading from Kam Tin Road. The layout plan, landscape plan, drainage plan and fire services installation plan submitted by the applicant are at **Drawings A-1 to A-4**.

- 1.4 When compared with the approved application (No. A/YL-PH/744), the current application involves the same use, site area, boundary and layout, as well as floor area, number of structures and building height.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with supplementary planning (**Appendix I**) statement and plans received on 15.4.2020
 - (b) Further Information (FI) received on 28.4.2020 in (**Appendix Ia**) response to departmental comments*
 - (c) FI received on 18.5.2020 in response to departmental (**Appendix Ib**) comments*
 - (d) FI received on 4.6.2020 in response to departmental (**Appendix Ic**) 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 and FIs in **Appendices I to Ic**. They are summarized as follows:

- (a) The development is in line with the planning intention of the “V” zone. There is no change to the layout when compared with the previous approved application.
- (b) The development only involves temporary structures. Refuse will be collected and the Site will be cleaned regularly to ensure environmental hygiene. Trees, drainage facilities and fire services installation at the Site will be properly maintained. The customers of the provisions store are mainly the nearby residents, and there is no security issue caused by the development.
- (c) There are similar planning applications in the vicinity of the Site approved by the Committee.

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 notification letter to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Town Planning Board Guidelines**

The Town Planning Board Guidelines on ‘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 not subject to planning enforcement action.

6. **Previous Application**

The Site is the subject of a previous Application No. A/YL-PH/744 for the same applied use as the current application. The application was approved with conditions by the Committee on 23.6.2017 mainly on the consideration that the temporary nature of the proposed use would not frustrate the long term planning intention of the “V” zone; it was not incompatible with the surrounding land uses; it was not anticipated to generate significant adverse traffic, environmental and landscape impacts; and relevant Government departments had no adverse comments on the application. All the approval conditions have been complied with and the planning permission is valid until 23.6.2020. Details of the application are summarized in **Appendix III** and its location is shown on **Plan A-1**.

7. **Similar Applications**

There are five similar applications (No. A/YL-PH/672, 708, 788, 813 and 816) involving 3 sites for various shop and services uses within the same “V” zone on the OZP. All of them were approved with conditions by the Committee between 2013 and 2019 on similar considerations that approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “V” zone; the development was not incompatible with the surrounding land uses; and relevant departments had no adverse comment. The planning permission of one application was revoked due to non-compliance with approval conditions. Details of the applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) fenced, hard-paved and currently occupied by structures and a shelter; and
- (b) accessible via a local track branching off from Kam Tin Road.

8.2 The surrounding areas are rural in character intermixed with residential structures/dwellings, shop, vacant/unused land, open storage / storage yards, workshops, warehouses, and parking of vehicles. Some of the open storage yards, parking of vehicles, warehouses and workshops are suspected unauthorized development subject to enforcement action by the Planning Authority:

- (a) to its north are residential structures/dwellings, parking of vehicles and an open storage yard; and
- (b) to its south is a shop (with valid planning permission under application No. A/YL-PH/788). To its west, further south and east are parking of vehicles, warehouses, workshops, open storage yards and vacant / unused land.

9. Planning Intention

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

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 an Old Scheduled 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 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 (SH) application(s) approved or under processing at the Site.

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 Transport Department (TD). The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) HyD 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

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

There was no environmental complaint concerning 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) She has no objection to the application from the landscape planning perspective.
- (b) Based on the aerial photo taken on 12.9.2019, the Site is situated in an area of rural landscape character comprising of scattered tree groups, temporary structures and village houses. Considering the nature and scale, the proposed development is considered not entirely incompatible with the surrounding environment.
- (c) Referring to the site visit dated 11.5.2020, the Site is occupied with temporary structures. Existing trees are in acceptable condition within the Site. Comparing the aerial photos taken in 2017 and 2019, there is no significant change to the surrounding landscape setting since the last application. Further significant adverse impact on landscape resources due to the development is not anticipated.
- (d) Should the application be approved, approval condition on maintenance of the existing trees within the Site satisfactorily at all times during the approval period should be included.

Drainage

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

- (a) He has no in-principle objection to the development.
- (b) It is noted that the applicant would maintain the same drainage facilities as those implemented under previous application No. A/YL-PH/744.
- (c) Should the application be approved, approval conditions on the maintenance of the drainage facilities implemented under application No. A/YL-PH/744 and submission of record of the existing drainage facilities on-site should be included in the planning permission.

Fire Safety

10.1.7 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 site being maintained in efficient working order at all times.

Building Matters

10.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, 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 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 BD to effect their removal in accordance with BD's 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 4.5 m wide and 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

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

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

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

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

11. Public Comments Received During Statutory Publication Period

On 24.4.2020, the application was published for public inspection. During the three-week statutory publication period, four public comments were received from the village representatives of Wang Toi Shan and villagers (with 42 signatures of the villagers) (**Appendices V-1 to V-4**). They object to the application mainly on the grounds that the development would induce adverse environmental, noise and traffic impacts; gathering of crowds would induce security problems; and the serenity of the area will be disturbed.

12. Planning Considerations and Assessments

12.1 The application is for renewal of planning approval for temporary shop and services (provision store) at "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. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board. The applied use is not entirely in line with the planning intention of the "V" zone. Nevertheless, DLO/YL of LandsD advises that there is currently no Small

House application approved or under processing at the Site. It is considered that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “V” zone.

- 12.2 The development is considered not incompatible with the surrounding land uses, which are rural in character intermixed with residential structures/dwellings, a shop and vacant/unused land.
- 12.3 The application is in line with TPB PG-No.34C in that previous approval for the same applied use was granted in 2017 and all the approval conditions in the previous approved application (No. A/YL-PH/744) have been complied with. Compared with the last approved application, the current application submitted by the same applicant is the same in terms of site area, layout, total floor area and building height. Besides, there is no major change in planning circumstances since the last approval.
- 12.4 Relevant government departments consulted including C for T, DEP, CE/MN of DSD, CTP/UD&L of PlanD, C of P and D of FS have no adverse comment on the application. To minimize the possible environmental nuisance generated by the development, approval conditions restricting the operation hours is recommended in paragraph 13.2 (a) below. Besides, the applicant will be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. Moreover, the technical requirements of C for T, CE/MN of DSD, CTP/UD&L of PlanD and D of FS could be addressed by approval conditions in paragraph 13.2 (b) to (f) below.
- 12.5 Apart from the previous approval for the same applied use granted for the Site in 2017, there are five similar applications within the same “V” zone for various shop and services uses approved with conditions by the Committee between 2013 and 2019. Approval of the current application is in line with the Committee’s previous decisions.
- 12.6 Four public comments were received during the statutory publication period, objecting to the application as stated in paragraph 11 above. In this regard, relevant Government departments’ comments as well as planning assessments and considerations 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 as mentioned in paragraph 11 above, the Planning Department has no objection to the temporary shop and services (provision store) 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 24.6.2020 to 23.6.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 10 p.m. and 9 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) the submission of a record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewal planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 24.9.2020;
- (e) the existing trees at the Site shall be maintained at all times during the planning approval period;
- (f) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (g) if any of the above planning condition (a), (b), (c), (e) or (f) 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
- (h) if the above planning condition (d) 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.

[The above planning conditions are largely the same as those under the planning permission of previous Application No. A/YL-PH/744, except change/deletion of those on drainage, FSIs and landscape aspects based on the comments of CE/MN of DSD, D of FS and CTP/UD&L of PlanD respectively.]

Advisory Clauses

The recommended advisory clauses are at **Appendix VI**.

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

the 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.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for 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 supplementary planning statement and plans received on 15.4.2020
Appendix Ia	FI received on 28.4.2020
Appendix Ib	FI received on 18.5.2020
Appendix Ic	FI received on 4.6.2020
Appendix II	Extract of TPB PG-No. 34C
Appendix III	Previous s.16 application covering the Site
Appendix IV	Similar applications within the same “V” zone on the approved Pat Heung OZP
Appendices V-1 to V-4	Public comments received during the statutory publication period
Appendix VI	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Landscape Plan

Drawing A-3	Drainage Plan
Drawing A-4	Fire Services Installations Proposal
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2020**