

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/1002

<u>Applicant</u>	: Chief Force Limited
<u>Site</u>	: Lots 377 S.C RP (Part), 379 RP (Part), 380 RP (Part), 381 RP (Part), 382 RP (Part), 412 RP (Part) and 414 (Part) in D.D. 110, Kam Tin North, Yuen Long, New Territories
<u>Site Area</u>	: about 5,460m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin North Outline Zoning Plan No. S/YL-KTN/11
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Temporary Open Storage with Ancillary Facilities for a Period of Three Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary open storage with ancillary facilities for a period of three years and filling of land at the application site (the Site), which falls within an area zoned “AGR” zone on the Kam Tin North OZP (**Plan A-1a**). According to the covering Notes of the OZP, temporary use of land not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of land within the “AGR” zone also requires planning permission from the Board. The Site is fenced, paved and currently used for the applied use without valid planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the applied use involves seven structures of not more than two storeys (occupying about 372m² / 6.8% of the Site) with a total floor area of about 744m² and building height of not more than 7.5m for ancillary office, staff resting room and toilet uses (**Drawing A-1**). The open area about 3,366m² / 61.6% of the Site) is used for open storage of construction materials and parking of vehicles. The applicant also applies for regularisation of filling of land for the whole Site with asphalt by 0.1m (from +10.9mPD to +11mPD) for site formation and vehicular circulation (**Drawing A-2**). The operation hours will be between 9:00a.m. and 6:00p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. Five

parking spaces for light goods vehicles are provided at the Site. The Site is accessible from Kam Tai Road and Kam Tin Road via local tracks (**Plans A-1a and A-2**). The site layout plan and the land filling plan submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.3 The Site is involved in eight previous applications (**Plan A-1b**) (see details under paragraph 6 below) including the last approved application No. A/YL-KTN/893 for the same use submitted by the same applicant as the current application with the planning permission revoked in February 2024 due to non-compliance with the approval conditions. Compared with the previous application No. A/YL-KTN/893, the current application is the same in terms of site area/boundary, layout and major development parameters.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary information received on 12.3.2024 (**Appendix I**)
 - (b) Further Information (FI) received on 23.4.2024* (**Appendix Ia**)
 - (b) FI received on 30.4.2024* (**Appendix Ib**)
- * accepted and exempted from publication and recounting requirements*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form, the supplementary information and FIs at **Appendices I to Ib**. They can be summarised as follows:

- (a) The applied use is temporary in nature and approval of the current application will not frustrate the long-term planning intention of the “AGR” zone.
- (b) The application is for the same use as the previously approved application (No. A/YL-KTN/893) with no change in development parameters. No adverse comment from government departments nor local objection was received during the last planning approval period. The planning permission was revoked due to non-compliance with the approval conditions. In support of the current application, the applicant has made submission of records of the existing drainage facilities and a fire service installations (FSIs) proposal.
- (c) The drainage facilities, FSIs and the vehicular access will be properly maintained. No tractor and vehicle exceeding 5.5 tonnes will be parked/entered the Site and the applied use will generate infrequent trips of about three vehicular trips per week. Hence, the applied use will not induce adverse environmental, traffic and drainage impacts on the surrounding areas.
- (d) The applied filling of land is necessary for site formation and vehicular circulation. The proposed ancillary staff resting room would not be used for domestic/residential purpose.

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

The applicant is not a “current land owner” of the Site 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. 31B) 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 is not subject to any active enforcement action. Subject to collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be undertaken.

5. **Town Planning Board Guidelines**

The Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance” (TPB PG-No. 13G) promulgated by the Board on 14.4.2023 are relevant to the application. The Site falls within Category 2 areas under TPB PG-No. 13G. The relevant extracts of the Guidelines are attached at **Appendix II**.

6. **Previous Applications**

- 6.1 The Site is involved in eight previous applications (No. A/YL-KTN/161, 263, 338, 355, 442, 553, 704 and 893) for various temporary open storage uses (including three renewals of temporary permissions). The two applications No. A/YL-KTN/161 and 263, covering much larger site areas, were rejected by the Board on review in May 2003 and by the Rural and New Town Planning Committee (the Committee) of the Board in May 2007 respectively, mainly on the grounds that the applied use was not in line with the planning intention; the development was not compatible with the surrounding uses; and the application did not comply with the then Town Planning Board Guidelines for application for open storage and port back-up uses¹. The other six applications (No. A/YL-KTN/338, 355, 442, 533, 704 and 893) were all approved with conditions by the Committee between January 2010 and March 2023 mainly on the considerations that temporary approval of the application would not frustrate the long-term planning intention; the development was not incompatible with the surrounding land uses; the application was generally in line with the Town Planning Board Guidelines for application for open storage and port back-up uses; and there was no adverse departmental comment or their technical concerns could be addressed by approval conditions. The permissions under applications No. A/YL-KTN/338 and 893

¹ The Site fell within Category 3 areas under the Town Planning Board Guidelines No. 13D for “Application for Open Storage and Port Back-up Uses” at the time of processing the applications (No. A/YL-KTN/161 and 263), and was reclassified from Category 3 to Category 2 under the Town Planning Board Guidelines No. 13E for “Application for Open Storage and Port Back-up Uses” promulgated by the Town Planning Board on 17.10.2008.

were subsequently revoked in November 2010 and February 2024 respectively due to non-compliance with the approval conditions.

- 6.2 Compared with the last approved application No. A/YL-KTN/893, the current application submitted by the same applicant is the same in terms site area/boundary, layout and major development parameters. The non-complied approval conditions under application No. A/YL-KTN/893 are related to the submission of records of drainage facilities and the implementation of FSIs proposal.
- 6.3 Details of the previous applications are summarised in **Appendix III** and their locations are shown on **Plan A-1b**.

7. Similar Applications

- 7.1 There are six similar applications (No. A/YL-KTN/654, 706, 729, 906, and 965; and A/YL-PH/960), involving four sites, for various temporary open storage uses (including three renewals of temporary permissions) within /straddling the same “AGR” zone in the vicinity of the Site in the past five years. All applications were approved with conditions by the Committee between May 2019 and December 2023 on similar considerations as stated in paragraph 6.1 above. The planning permission under application No. A/YL-KTN/654 was revoked in June 2019 due to non-compliance with the approval conditions.
- 7.2 Details of the similar applications are summarised in **Appendix III** and their locations are shown on **Plan A-1a**.

8. The Site and Its Surrounding Area (Plans A-2 to A-4)

- 8.1 The Site is:
 - (a) fenced, paved and currently used for the applied use without valid planning permission; and
 - (b) accessible from Kam Tin Road and Kam Tin Road via local tracks.
- 8.2 The surrounding areas are rural in character mainly intermixed with warehouse (without valid planning permission), open storage/storage yards (including a site with valid planning permission under application No. A/YL-KTN/965), parking of vehicles (including sites with valid planning permissions under applications No. A/YL-KTN/888 and 915), plant nursery, farmland and residential dwellings/structures. A transitional housing development and hobby farm approved under the renewal application No. A/YL-PH/999 in April 2024 is currently under implementation to the east of the Site.

9. Planning Intention

- 9.1 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.
- 9.2 According to the Explanatory Statement of the OZP for the “AGR” zone, as filling of land/pond may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government department as set out in 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in Appendices IV and V respectively.
- 10.2 The following government department does not support the application:

Agriculture and Nature Conservation

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

- (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
- (b) the Site falls within the “AGR” zone and is generally vacant and occupied by some structures. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses and plant nurseries; and
- (c) no comment from nature conservation perspective.

11. Public Comment Received During Statutory Publication Period

The application was published for public inspection. During the statutory public inspection period, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary open storage with ancillary facilities for a period of three years and filling of land at the Site zoned “AGR” (**Plan A-1**). The planning intention of the “AGR” zone is primarily to retain and safeguard good 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.

Whilst the applied use is not in line with the planning intention of “AGR” zone and DAFC does not support the application from agricultural perspective, taking into account the planning assessments below, the applied use on a temporary basis of three years could be tolerated.

- 12.2 Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding areas. In this regard, the Chief Engineer/Mainland North of the Drainage Services Department (CE/MN of DSD) and the Director of Environmental Protection (DEP) have no objection to the application from drainage and environmental perspectives. An approval condition requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.
- 12.3 The applied use is considered not incompatible with the surrounding areas which are rural in character intermixed with open storage/storage yards, parking of vehicles and residential dwellings/structure. Regarding the transitional housing to the east of the Site, the applied use would only involve light goods vehicles and infrequent trips would be generated. DEP has no objection to the application from environmental perspective. The Chief Town Planner/Urban Design and Landscape, Planning Department considers that significant adverse landscape impact arising from the applied use is not anticipated and has no objection to the application from landscape planning perspective.
- 12.4 The Site falls within Category 2 areas under TPB PG-No. 13G. The following considerations in the Guidelines are relevant:
- Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of three years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate, should be submitted to demonstrate that the applied use would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.
- 12.5 The application is considered generally in line with TPB PG-No. 13G in that relevant departments consulted including the Commissioner for Transport, DEP, CE/MN of DSD and the Director of Fire Services (D of FS) have no objection to or no adverse comments on the application. To address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 13.2 below. The applicant will also be advised to follow the revised ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by DEP to minimise the possible environmental nuisance generated by the applied use.
- 12.6 The Site is involved in six approved previous applications for temporary open storage use as mentioned in paragraph 6.1. The planning permission under the last application (No. A/YL-KTN/893) submitted by the same applicant was revoked due to non-compliance with the approval conditions related to the submission of records of drainage facilities and the implementation of FSIs proposal. In this regard, the applicant has submitted records of the existing drainage facilities and FSIs proposal under the current application which are accepted by CE/MN of DSD and D of FS respectively. Should the Committee decide to approve the application, the applicant

will be advised that should he fail to comply with the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application. Whilst there are two rejected previous applications for temporary open storage use, their planning circumstances are different from the current application as they were considered not complying with the then Town Planning Board Guidelines for application for open storage and port back-up uses. In addition, there are six approved similar applications for various temporary open storage uses in the vicinity in the past five years as detailed in paragraph 7 above. Approving the current application is in line with the Committee's previous decisions.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department considers that the applied use could be tolerated for a period of three 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 three years until 10.5.2027. 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 on the site at any time during the planning approval period;
- (b) no dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities shall be carried out on the site at any time during the planning approval period;
- (c) the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) the implementation of the accepted 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 10.2.2025;
- (e) if any of the above planning condition (a), (b) or (c) 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;
- (f) 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; and
- (g) 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**.

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

the applied use with filling of land 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.
- 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 information received on 12.3.2024
Appendix Ia	FI received on 23.4.2024
Appendix Ib	FI received on 30.4.2024
Appendix II	Relevant Extract of TPB PG-No. 13G
Appendix III	Previous and similar applications
Appendix IV	Government department's general comments
Appendix V	Recommended advisory clauses
Appendix VI	Fire Services Department's good practice guidelines for open storage sites
Drawing A-1	Site layout plan

Drawing A-2	Land filling 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
MAY 2024**