

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

APPLICATION NO. A/YL-KTS/907

<u>Applicant</u>	: Chief Force Limited
<u>Site</u>	: Lots 1319 (Part) and 1336 S.A (Part) in D.D.106, Kong Ha Wai, Kam Sheung Road, Pat Heung, Yuen Long
<u>Site Area</u>	: About 2,508 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zoning</u>	: Residential (Group D) ("R(D)") [maximum plot ratio of 0.2 and building height of 2 storeys (6m)]
<u>Application</u>	: Renewal of Planning Approval for Temporary Open Storage of Vehicles and Modification Workshop for Vans and Lorries 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 open storage of vehicles and modification workshop for vans and lorries for a period of 3 years. The Site falls within an area zoned "R(D)" on the Kam Tin South OZP (**Plan A-1**). The applied use is neither a Column 1 nor Column 2 use in the "R(D)" zone. According to the covering Notes of the OZP, temporary use not exceeding a period of 3 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 currently used for the applied use (**Plans A-2 to A-4b**) under the last approved application (No. A/YL-KTS/804) .
- 1.2 The Site is the subject of 10 previous applications for similar temporary open storage/ storage of vehicles and workshop uses. All the applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) or the Board on review between 1998 and 2018. The last application No. A/YL-KTS/804 for the same use submitted by the same

applicant as the current application was approved with conditions on 16.11.2018 by the Committee for a period of 3 years. All the approval conditions of the last application had been complied with and the permission is valid until 18.12.2021.

- 1.3 According to the information submitted by the applicant, the applied use involves 8 one-storey temporary structures with a total floor area of about 807.8m² and building height ranging from 2.6m to 5.3m for workshop, storage and office uses. According to the applicant, vehicles of 5.5 tonnes are used for operation of the development. The operation hours are from 9:00 a.m. to 6:00 p.m., Mondays to Saturdays and no operation on Sundays and public holidays. The Site is accessible via a local track leading from Kam Sheung Road. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 The current application is the same as the last approved application No. A/YL-KTS/804 in terms of site area/boundary, applied use, total floor area, number of structures and site layout.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with planning statement and plans received on 28.9.2021 (**Appendix I**)
 - (b) Further information (FI) received on 17.11.2021 in response to departmental comments (**Appendix Ia**)
[*exempted from publication requirements*]

2. **Justifications from the Applicant**

The justifications put forth by the applicant are detailed in the application form, planning statement, plans and FI in **Appendices I** and **Ia**. They can be summarized as follows:

- (a) The applied use is temporary in nature. It does not involve permanent structures and will not jeopardize the implementation of the long-term planning intention.
- (b) The application is for renewal of a previously approved application No. A/YL-KTS/804. No complaint was received from the local or government department since the last approval and the Site has been kept in good condition.
- (c) The applicant has properly maintained the trees and landscaping on-site. The drainage facilities on-site have been cleaned regularly to avoid flooding. The Site has also been provided with appropriate fire service installations (FSIs). There is no traffic impact on Kam Sheung Road or the surrounding area. The applicant will comply with all approval conditions to be stipulated by the Board.

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

The applicant is not “current land owner” but has complied with the requirement 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 notice at the Site and sending notice to the Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Town Planning Board Guidelines**

- 4.1 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. 34D) are relevant to this application. The relevant assessment criteria are attached at **Appendix II**.
- 4.2 The Site falls within Category 3 area under the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No.13F) promulgated by the Board on 27.3.2020. The relevant extract of the Guidelines is attached at **Appendix III**.

5. **Background**

The Site is not subject to planning enforcement action.

6. **Previous Applications**

- 6.1 The Site is the subject of 10 previous applications (No. A/YL-KTS/127, 168, 221, 259, 335, 417, 461, 594, 684 and 804) for similar temporary open storage/storage of vehicles and related workshop uses. Details of the applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1b**.
- 6.2 All applications were approved with conditions by the Committee or by the Board on review between 1998 and 2018 mainly for the reasons that approval of the applications on a temporary basis would not frustrate the long-term planning intention of the sites; the developments were generally in line with the then Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses in that planning approvals had been granted and there were no changes in planning circumstances; relevant departments in general had no adverse comment and/or the concerns of relevant departments could be addressed by approval conditions. However, the planning permissions for applications No. A/YL-KTS/221 and 417 were revoked in 2001 and 2008 respectively due to non-compliance with the approval conditions related to drainage and FSIs aspects.
- 6.3 Compared with the last application (No. A/YL-KTS/804), the current application submitted by the same applicant involves the same site area/boundary, applied use, total floor area, number of structures and site

layout. All the approval conditions had been complied with and the planning permission is valid until 18.12.2021.

7. Similar Applications

- 7.1 There are a total of 19 similar applications for various temporary open storage and/or workshop uses (including the renewal of the planning approvals granted by the Board) within the same and adjoining “R(D)” zones on the OZP since the promulgation of the then TPB PG-No.13E in October 2008. All the similar applications, except two applications (No. A/YL-KTS/536 and 599), were approved with conditions by the Committee. Details of these applications are summarized in **Appendix IV** whilst their location are shown on **Plan A-1a**.
- 7.2 17 of the similar applications were approved between May 2009 and May 2021 on similar considerations that approval of the applications on a temporary basis would not frustrate the planning intention of “R(D)” zone; the developments were not incompatible with the surrounding land uses; the developments were generally in line with the then TPB PG-No. 13E in that previous planning approvals for similar open storage uses had been granted and/or the relevant departments had no adverse comments or the concern of relevant departments could be addressed by appropriate approval conditions. However, the planning permissions for applications No. A/YL-KTS/584 and 611 were revoked in June 2013 and January 2014 due to non-compliance with planning conditions.
- 7.3 Applications No. A/YL-KTS/536 for temporary car breaking workshop and open storage of vehicles and vehicles parts, and No. A/YL-KTS/599 for temporary warehouse and ancillary office and open storage (power generator, machinery and parts) were rejected by the Committee in May 2011 and the Board on review in September 2013 respectively mainly on similar grounds that the applications did not comply with the then TPB PG-No. 13E in that there was no previous approval for workshop and open storage uses granted at the sites and there were adverse departmental comment and local objections against the applications; and the approval of the applications would set undesirable precedents.

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

- 8.1 The Site is:
- (a) accessible via a local track leading from Kam Sheung Road; and
 - (b) used for the applied use with planning permission under application No. A/YL-KTS/804.
- 8.2 The surrounding areas are rural in character mixed with storage/open storage yards, warehouses, plant nursery, residential dwellings/structures, vacant land and the construction site of transitional housing (**Plan A-2**):

- (a) to its immediate east are residential dwellings/structures (the nearest one about 5m away). To its further northeast and east, across a local access road, are open storage yards (one of which is approved under application No. A/YL-KTS/844) and a few residential dwellings / structures;
- (b) to its immediate west are a warehouse operated with planning permission under application No. A/YL-KTS/805 and a plant nursery and storage of plotted plants;
- (c) to its north, south and further west is a site for temporary transitional housing development with planning permission under application No. A/YL-KTS/847, which is under construction.

9. Planning Intention

The planning intention of the “R(D)” zone is intended 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.

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 Schedule 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) Lots 1319 and 1336 S.A in D.D. 106 within the Site are covered by a Short Term Waiver (STW) No. 3884 to permit structures erected thereon for the purpose of “temporary open storage of vehicles and modification workshop of vans and lorries”.
- (c) Should the application be approved, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. 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 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 maintenance of any access connecting the application site and Kam Sheung Road/Kam Shui South Road/Kam Shui Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Nature Conservation

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

As the Site has been used for similar purpose for some years and the current application seeks for renewal of the existing use, he has no comment on the application from nature conservation point of view.

Environment

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

- (a) There was no environmental complaint received in the past three years in respect of the Site.

- (b) According to the “Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storage Sites”, he does not support the application as there are sensitive receivers, i.e. residential structures located to the southeast of the Site (the nearest about 5m to the east), and environmental nuisance is expected.
- (c) Should the application be approved, 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

10.1.6 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 point of view.
- (b) It is observed that there is no significant change in the landscape character for adjacent area since the last application (No. A/YL-KTS/804). Besides, there is no change in the major development parameters of this renewal application when compared to that in the previous application. Landscape impact arising from the continuous use within the Site is not anticipated. Moreover, the Site is located within “R(D)” zone, which is a non-landscape sensitive zoning.

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) Based on the submission, the applicant would maintain the same drainage facilities as those implemented under previous Application No. A/YL-KTS/804.
- (c) Should the application be approved, approval conditions requiring the maintenance of the drainage facilities implemented under Application No. A/YL-KTS/804 and the submission of a record of the existing drainage facilities on site to the satisfaction of the Director of Drainage Services or of the Board should be included.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to FSIs being provided to his satisfaction.
- (b) The existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period.

Building Matters

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

- (a) As there is no record of approval granted by the Building Authority (BA) for existing structures at the Site, he is not in a position to offer comments on the suitability for the use proposed in the application.
- (b) 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 BA should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance.
- (c) His detailed comments on UBW, provision of access, temporary or licensed structures are at **Appendix VII**.

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 the locals upon close of consultation and he has no comment on the application.

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

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Director of Electrical and Mechanical Services (DEMS); and
- (d) Commissioner of Police (C of P).

11. Public Comments Received During Statutory Publication Period

On 8.10.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, 3 public comments were received, including 2 objecting views and one providing comments on the application (**Appendix VII**). Two commenters object to the application mainly on the grounds that the proposed development would have adverse impact on flight safety, traffic, environment, fire safety and security aspects, and would affect the living quality of the villagers. The remaining commenter provides views that more high-rise industrial estates should be built by the Government so as to clear these brownfield developments in the rural area.

12. Planning Considerations and Assessments

- 12.1 The Site falls within Category 3 areas under the TPB PG-No. 13F. The following consideration in the Guidelines are relevant:

Category 3 areas: within these areas, “existing” and approved open storage and port back-up uses are to be contained and further proliferation of such uses is not acceptable. Applications falling within Category 3 areas would normally not be favourably considered unless the applications are on sites with previous planning approvals (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant). In that connection, sympathetic consideration may be given if genuine efforts have been demonstrated in compliance with approval conditions of the previous planning applications and relevant technical assessments/proposals have been included in the fresh applications, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. 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, planning permission could be granted on a temporary basis up to a maximum period of 3 years.

- 12.2 The application is for renewal of the planning permission for temporary open storage of vehicles and modification workshop for vans and lorries for a period of 3 years in “R(D)” zone. The applied use is not in line with the planning intention of the “R(D)” zone, which is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, and for low-rise, low-density residential developments subject to planning permission from the Board. Nevertheless, there is no known programme for long-term development at the Site. Hence, it is considered that approval of the application on temporary period of 3 years would not jeopardize the long-term planning intention of the “R(D)” zone.
- 12.3 The surrounding areas are mixed with storage/open storage yards, warehouses, residential dwellings/structures, vacant land and the construction site for transitional housing development. The Site is the subject of 10 previous applications for temporary open storage, storage of vehicles with/without workshop approved by the Committee or by the Board on review

between 1998 and 2018 mainly for the reasons as mentioned in paragraph 6.2 above. There are also 17 similar applications for various temporary open storage uses and/or workshop uses in the same and adjoining “R(D)” zones approved by the Committee between 2009 and 2021 mainly on the reasons as mentioned in paragraph 7.2 above. Approval of the application is in line with the Committee’s previous decisions.

- 12.4 The application is considered generally in line with the TPB PG-No. 34D and 13F in that previous approvals for similar applied uses had been granted since 1998 and all the approval conditions under the last approved application No. A/YL-KTS/804 had been complied with. There is in general no adverse comment from the relevant departments, except DEP, and no local objection to the application. The applicant has also submitted drainage and FSIs proposals in the current application. Compared with the last approved application No. A/YL-KTS/804, the current application submitted by the same applicant is the same in terms of the applied use, site area/boundary, total floor area and site layout. As previous approvals have been granted and there is no major change in planning circumstances since the last approval, sympathetic consideration could be given to the current application.
- 12.5 While DEP does not support the application as there are sensitive receivers, i.e. residential dwellings located to the east (with the nearest one about 5m to the east) (**Plan A-2**) and environmental nuisance is expected, there has been no environmental complaint received in the past three years in respect to the Site. In order to address any potential environmental nuisance, approval conditions restricting the operation hours, types of vehicles and paint spraying activities are recommended in paragraphs 13.2 (a) to (d) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on site will be subject to enforcement action by the Planning Authority. In addition, the applicant will also be advised to adopt the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to alleviate any potential impact. The technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by imposing approval conditions (e) to (i) in paragraph 13.2 below.
- 12.6 Three public comments objecting to / providing comments on the application were received during the statutory publication period as mentioned in paragraph 11 above. Regarding the flight safety concern, the development with building height of not more than 5.3m does not exceed the airport height restrictions of Shek Kong Airfield (i.e. 69mPD) applicable to the Site. On other concerns raised in the public comments, the departmental comments and planning assessments and considerations above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 above and having taking into account the public comments mentioned in paragraph 11 above, the Planning Department considers that the temporary open storage of vehicles and modification workshop for vans and lorries 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 19.12.2021 until 18.12.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 9:00 a.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 paint-spraying activities shall be carried out at the open area of the Site at any time during the planning approval period;
- (d) 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;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the existing trees and landscape plantings on the Site shall be maintained at all times during the planning approval period;
- (g) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (h) the existing drainage facilities implemented on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of a 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 19.3.2022;
- (j) if any of the above planning condition (a), (b), (c), (d), (e), (f), (g) or (h) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (k) 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.

[The above approval conditions are similar to those under the last approved application No. A/YL-KTS/804 except the exclusion of

submission and implementation of fire services installations and drainage proposals.]

Advisory Clauses

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

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

The development is not in line with the planning intention of the "R(D)" zone which is intended 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 Town Planning Board. There is no strong planning justification 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 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

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| Appendix I | Application Form with Planning Statement and Plans received on 28.9.2021 |
| Appendix Ia | FI received on 17.11.2021 |
| Appendix II | Relevant Extract of the Town Planning Board Guidelines No. 34D on 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development' |
| Appendix III | Relevant Extract of the Town Planning Board Guidelines No. 13F for 'Application for Open Storage and Port Back-up Uses' |
| Appendix IV | Previous Applications covering the Site |
| Appendix V | Similar Applications within the Same and Adjoining "R(D)" Zones on the OZP |

Appendix VI	Good Practice Guidelines for Open Storage Sites
Appendix VII	Public Comments
Appendix VIII	Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2021**