

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

APPLICATION NO. A/YL-KTS/909

<u>Applicant</u>	: Chief Force Limited
<u>Site</u>	: Lot 1336 S.A (Part) in D.D. 106, Kong Ha Wai, Kam Sheung Road, Pat Heung, Yuen Long, New Territories
<u>Site Area</u>	: About 1,327m 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 Warehouse for Storage of Building Material Products 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 warehouse for storage building material products for a period of 3 years. The Site falls within an area zoned “R(D)” on the Kam Tin South OZP (**Plan A-1a**). 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 with valid planning permission.
- 1.2 The Site is the subject of eight previous applications for various temporary timber processing workshop or warehouse uses. All applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) from 1998 to 2018. The last application No. A/YL-KTS/805 for renewal of the planning approval for the same applied use and submitted

by the same applicant as the current application was approved with conditions by the Committee on 16.11.2018 for a period of 3 years. All approval conditions of the last application have been complied with and the planning permission is valid until 8.1.2022.

- 1.3 According to the information provided by the applicant, a 1-storey temporary structure with floor area of about 727.5m² and building height of about 6m is provided on-site for warehouse and office uses. The Site is accessible via a local track from Kam Sheung Road. Two parking spaces for private cars and light goods vehicles are provided within the Site. The operation hours are between 9:00 a.m. and 6:00 p.m. Mondays to Saturdays and no operation on Sundays and public holidays. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 When compared with the last approved application No. A/YL-KTS/805, the current application is the same in terms of the applied use, site area, floor area, site layout and number of structure and car parking provision.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary information and plans received on 29.9.2021 **(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 in support of the application are detailed in the application form, supplementary information, plans and FI in **Appendices I to Ia**. They can be summarized as follows:

- (a) The applied use does not involve permanent structures and does not contravene the planning intention. It is compatible with the surrounding area and no adverse impact on nearby residents is anticipated.
- (b) The Site is the subject of a previous approved planning application No. A/YL-KTS/805. The applicant has complied with all the approval conditions. There was no change in planning circumstances and no complaint received in the past three years.
- (c) The drainage facilities on-site have been cleaned regularly to avoid flooding. The Site has also been provided with appropriate fire service installations. There is no adverse traffic impact on Kam Sheung Road or the surrounding area. The applicant will comply with all approval condition(s) if the application is approved.

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

The applicant is not a “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 at the Site and sending notice to 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 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**.

5. **Background**

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

6. **Previous Applications**

6.1 The Site, in part or in whole, is the subject of eight previous applications for various temporary workshop or warehouse uses. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1b**.

6.2 All previous applications, including Applications No. A/YL-KTS/128, 175 and 226 for temporary timber workshop and Applications No. A/YL-KTS/363, 469, 588, 688 and 805 for temporary warehouse for storage of timber products / recycled building material products / building material products and renewal of its planning approval, were approved with conditions by the Committee between 1998 and 2018 mainly for the reasons that approval of the applications on a temporary basis would not jeopardize the long-term planning intention; the developments were not incompatible with the surrounding areas; there were in general no adverse comments from concerned departments and no local objection were received; and previous approvals had been granted for similar use on the site and there was no change in planning circumstances since the last approval. However, applications No. A/YL-KTS/226 and 469 were revoked in June 2001 and May 2011 respectively due to non-compliance with approval conditions related to the submission and implementation of landscape proposal and provision of drainage facilities (for Application No. A/YL-KTS/226), and provision of boundary fence and submission and implementation of fire service installations (for Application No. A/YL-KTS/469).

6.3 Compared with the last application (No. A/YL-KTS/805), the current application is submitted by the same applicant for the same applied use, site area, floor area, site layout, number of structure and car parking provision. All

the approval conditions of the last approved application No. A/YL-KTS/805 have been complied with and the planning permission is valid until 8.1.2022.

7. Similar Applications

- 7.1 There are four similar applications involving three sites for temporary warehouse and related uses within the same and adjoining “R(D)” zones in the vicinity of the Site. Details of these applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1a**.
- 7.2 Applications No. A/YL-KTS/403, 451 and 695 for temporary warehouse and office uses were approved with conditions by the Committee between 2007 and 2016 for the reasons that approval of the applications on a temporary basis would not jeopardize the long-term planning intention; the developments were not incompatible with the surrounding areas; previous approval had been granted for similar use on the site; there were no adverse departmental comments on the applications; and the environmental concern of relevant department could be addressed by appropriate approval conditions. However, applications No. A/YL-KTS/451 and 695 were revoked in September 2009 and September 2017 respectively due to non-compliance with approval conditions.
- 7.3 The other application (No. A/YL-KTS/599) for temporary warehouse and ancillary office and open storage was rejected upon review by the Town Planning Board (the Board) in September 2013 mainly on the grounds that the development was not in line with the planning intension; the application site which fell within Category 3 areas was not in line with the then Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses in that the development was not compatible with the surrounding land uses which is rural in character overgrown with vegetation; the applicant failed to demonstrate that the development would not generate adverse landscape and drainage impacts on the surrounding area; and approval of the application would set an undesirable precedent.

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

- 8.1 The Site is:
- (a) used for the applied use with a valid planning permission under application No. A/YL-KTS/805; and
 - (b) accessible from Kam Sheung Road via a local track.
- 8.2 The surrounding areas are rural in character, intermixed with open storage/storage yards, warehouse, plant nursery, residential structures/dwellings, vacant land and the construction site of transitional housing (**Plan A-2**):
- (a) to its immediate east is an open storage yard with planning permission under application No. A/YL-KTS/804; to its further northeast and east,

across a local access road, are an open storage yard and a residential dwelling / structure;

- (b) to its immediate north is a plant nursery and storage of plotted plants; and
- (c) to its south, west and further north 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 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 an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Lot 1336 S.A in D.D. 106 within the Site is covered by Short Term Waiver (STW) No. 3884 to permit structures erected thereon for the purpose of “temporary open storage of vehicles and modification workshop for vans and lorries”.
- (c) The Site is accessible from Kam Shui Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) Should planning approval be given to the application, 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 premium 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 the maintenance of any access connecting the 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 purposes 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 in respect of the Site received in the past three years.

- (b) The applicant is advised to follow the relevant mitigation measures and requirement 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 the adjacent area since the last application (No. A/YL-KTS/805). 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 in-principle objection to the development.
- (b) Based on the drainage proposal/planning statement enclosed in the application, apparently the applicant would maintain the same drainage facilities as those implemented under previous application No. A/YL-KTS/805.
- (c) Should the application be approved, approval conditions on the maintenance of the drainage facilities implemented under application No. A/YL-KTS/805 and submission of the records of the existing drainage facilities on site should be included in the planning approval.

Fire Safety

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

- (a) He has no objection in principle to the application subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised

to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.

- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

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 the 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 etc.) 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 VI**.

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 the consultation period and has no particular 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) Director of Electrical and Mechanical Services (DEMS);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (d) Commissioner of Police (C of P).

11. Public Comment 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, one public comment from an individual was received. (**Appendix V**). The commenter objects to the application mainly on the grounds that the development would have adverse impact on traffic and environment, increase the fire safety security risks, and affect the living quality of the nearby villagers.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning permission for temporary warehouse for storage of building material products for a period of three years in “R(D)” zone. The applied use is not in line with the planning intention of the “R(D)” zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent building, and for low-rise, low-density residential developments subject to planning permission from the Board. As there is no known development programme for long-term development at the Site, it is considered that planning approval of the application on a temporary basis for 3 years would not jeopardize the long-term planning intention of the “R(D)” zone.
- 12.2 The applied use is considered not incompatible with the surrounding land uses which are mainly rural in character intermixed with storage/open storage yards, warehouse, residential dwellings/structures, plant nursery, vacant land and the construction site for transitional housing development (**Plans A-2 and A-3**).
- 12.3 The application is generally in line with the TPB PG-No. 34D in that previous approvals for the same applied use had been granted since 2013; there has been no material change in planning circumstances since the granting of the previous approval under Application No. A/YL-KTS/805; the applicant has complied with all the approval conditions; and the 3-year approval period sought is reasonable. Compared with the last approved application No. A/YL-KTS/805, the current application submitted by the same applicant is the same in terms of site area/boundary, applied use and site layout and there is no major change in planning circumstances since the last approval. In this regard, favourable consideration can be given to the current renewal application.
- 12.4 Relevant government departments consulted, including C for T, CE/MN of DSD, DEP and CTP/UD&L of PlanD, have no adverse comment on or no objection to the renewal application. The development will unlikely create significant adverse traffic, environmental, drainage and landscape impacts on the surrounding areas. To minimize any possible environmental nuisance generated by the development, approval conditions restricting the operation hours, vehicle types and prohibiting dismantling, maintenance, repairing, cleansing, paint-spraying or other workshop activities are recommended in paragraphs 13.2 (a) to (c) below. The applicant will also be advised to adopt

the latest “Code of Practice on Handling the Environmental Aspects of Open Storage and Other Temporary Uses” in order to alleviate any potential impact. The technical requirements of C for T, CE/MN of DSD, D of FS and CTP/UD&L of PlanD on traffic, drainage, fire safety and landscape aspects could be addressed by imposing approval conditions (d) to (j) in paragraph 13.2 below.

- 12.5 The Committee has approved three previous applications for the same use at the Site and three similar applications within the “R(D)” zones in the vicinity of the Site. The only rejected similar application (No. A/YL-KTS/599) is different in circumstances as stated in paragraph 7.3 above. Approval of the current application is in line with the Committee’s previous decisions.
- 12.6 A public comment objecting to the application was received during the statutory publication period as mentioned in paragraph 11 above. On the 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 comment mentioned in paragraph 11 above, the Planning Department considers that the temporary warehouse for storage of building material products 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 9.1.2022 until 8.1.2025. The following approval conditions 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 dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities are allowed on the Site at any time during the planning approval period;
- (d) no medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance is 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 reverser 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 drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of records 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 9.4.2022;
- (i) the submission of a fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 9.7.2022;
- (j) in relation to (i) above, the provision of the fire service installations within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 9.10.2022;
- (k) if any of the above planning condition (a), (b), (c), (d), (e), (f) or (g) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (l) if any of the above planning condition (h), (i) or (j) 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 the same as those under planning permission for pervious application No. A/YL-KTS/805.]

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 Members' reference:

The development is not in line with the planning intention of the "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent building, and for low-rise, low-density residential developments subject to planning permission from the Town Planning Board. 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 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 and Plans received on 29.9.2021
Appendix Ia	FI received on 17.11.2021
Appendix II	Relevant Extracts of the Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Condition for Temporary Use or Development (TPB PG-No. 34D)
Appendix III	Previous Applications covering the Site
Appendix IV	Similar Applications within the Same and Adjoining “R(D)” zones on the Kam Tin South OZP
Appendix V	Public Comment
Appendix VI	Advisory Clause
Drawing A-1	Site Layout Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Location Plan with Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4	Site Photos