

RNTPC Paper No. A/YL-PH/1000
For Consideration by
the Rural and New Town
Planning Committee
on 10.5.2024

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/1000

<u>Applicant</u>	: Chief Force Limited
<u>Site</u>	: Lots 2894 (Part) and 2895 (Part) in D.D. 111, Pat Heung, Yuen Long, New Territories
<u>Site Area</u>	: About 1,980m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Pat Heung Outline Zoning Plan No. S/YL-PH/11
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Place of Recreation, Sports or Culture (including Barbecue and Picnic Sites with Ancillary Facilities) for a Period of Three Years and Filling of Land

1 The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary place of recreation, sports or culture (including barbecue and picnic sites with ancillary facilities) for a period of three years and filling of land. The Site falls within “AGR” zone on the Pat Heung OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of land in the “AGR” zone also requires planning permission from the Board. The Site is paved and generally vacant with some temporary container structures erected without valid planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed use involves the erection of three temporary structures with building heights ranging from 3m to 7m and a total floor area of about 290m² for ancillary management office, storage room, shelter and toilet. Four private car parking spaces and one light goods vehicle parking space are proposed within the Site. It is proposed to have day and night shifts for staff with three staff members for each shift. The Site can accommodate around 30 visitors per day. The applicant also applies for regularisation of filling of land with asphalt by 0.1m in depth (from +36.6mPD to +36.7mPD) for the entire Site for site formation. The operation hours will be from 11:00 a.m. to 11:00 p.m. daily including public holidays. The Site is accessible from Kam Tin Road via local tracks. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is involved in two previous applications including the last approved application No. A/YL-PH/915 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. The proposal under the current application is the same as that of the last approved application. Details of the applications are at paragraph 5 below.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary information (Appendix I)
received on 12.3.2024 and 18.3.2024
 - (b) Further Information (FI) received on 30.4.2024* (Appendix Ia)
** 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, supplementary information and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) The proposed use is temporary in nature and would not frustrate the long-term planning intention of the “AGR” zone.
- (b) The proposed use can meet the demand of the general public for recreational space in the rural area. It can also enhance the overall environmental quality of the area.
- (c) No public announcement system will be allowed within the Site. Only private cars and light goods vehicles not exceeding 5.5 tonnes will be allowed to enter/exit the Site. The proposed use will not induce significant adverse traffic, environmental, drainage and fire safety impacts to the surrounding areas.
- (d) Drainage facilities have been implemented at the Site pending acceptance by the relevant government department. The required Short Term Waiver was not granted by the specified time limit of the approval condition of the last approved application, which affected the implementation of the fire service installations (FSI) at the Site. The accepted FSI and drainage proposals of under the last approved application No. A/YL-PH/915 are submitted in support of the current application. The applicant will endeavour to comply with all the approval conditions should the application be approved by the Rural and New Town Planning Committee (the Committee) of the Board.
- (e) The extent of the filling of land is necessary for site formation to facilitate the proposed use.
- (f) In response to the objecting public comment regarding the adverse environmental impacts caused by the proposed use, the applicant clarifies that regular desludging works will be arranged for the container-type portable toilet on the Site, which will not induce adverse impact on the surrounding; the submitted drainage proposal was accepted by the relevant government department under the previous approved application No. A/YL-PH/915; cleansing contractors will be employed to provide

cleansing services including waste collection; and the lighting provided at the Site would not pose major light pollution.

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

The applicant is not the “current land owner” of the Site 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. 31B) by posting notice at the Site 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 Background

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

5 Previous Applications

5.1 The Site is involved in two previous applications (No. A/YL-PH/879 and 915). Application No. A/YL-PH/879 for temporary shop and services is not relevant to the current application. The last application (No. A/YL-PH/915) for the same use submitted by the same applicant as the current application was approved with conditions by the Committee on 20.5.2022 mainly on the considerations that approval on a temporary basis would not jeopardise the planning intention of the “AGR” zone; the proposed use was not incompatible with the surrounding land uses; relevant departments consulted in general had no adverse comments and their technical concerns could be addressed by the approval conditions. The planning permission was subsequently revoked in February 2024 due to non-compliance with the approval conditions related to implementation of drainage and FSI proposals. In the current application, drainage and FSI proposals as well as a record of the implemented drainage proposal are submitted in support of the application.

5.2 Details of the applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

6 Similar Application

There is no similar application within the same “AGR” zone in the vicinity of the Site in the past five years.

7 The Site and Its Surrounding Areas (Plans A-2 to A-4)

7.1 The Site is:

- (a) paved and generally vacant with some temporary container structures without valid planning permission; and

(b) accessible from Kam Tin Road via local tracks.

7.2 The surrounding areas are rural in character mainly intermixed with vacant land (including a site with valid planning permission under application No. A/YL-PH/976 for temporary public vehicle park), woodland, graves, open storage/storage yards, vehicle parks and vehicle repair workshop. The open storage/storage yards, vehicle parks and vehicle repair workshop uses are without valid planning permission. To the southeast is an area zoned “Conversation Area” covered with vegetation. Lam Tsuen Country Park is located to the east of the Site.

8 Planning Intention

- 8.1 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.
- 8.2 According to the Explanatory Statement of the OZP for “AGR” zone, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

9 Comments from Relevant Government Departments

- 9.1 Apart from the government department as set out in paragraph 9.2 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 III and IV** respectively.
- 9.2 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. Agricultural infrastructures such as road access and water source are available in the vicinity of the Site, which can be used for agricultural activities such as open-field cultivation, greenhouses and plant nurseries, etc.; and
- (c) no comment on the application from nature conservation perspective.

10 Public Comments Received During the Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory publication period, two public comments were received. One comment from the Conservancy Association objects to the application on the grounds that the proposed use is not in line with the planning intention of the “AGR” zone; it would cause adverse environmental impacts; the Site is a suspected “destroy first, build later” case and approval of the application would set an undesirable precedent for similar cases in the future. The other comment from an individual raises concerns on the compliance status of the approval conditions under the previous application and the current use of the Site as brownfield use.

11 Planning Considerations and Assessments

- 11.1 The application is for proposed temporary place of recreation, sports or culture (including barbecue and picnic sites 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 quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The proposed use is not in line with the planning intention of the “AGR” zone, and DAFC does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation. Nevertheless, taking into account the planning assessment below, the proposed use on a temporary basis for a period of three years could be tolerated.
- 11.2 Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of 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.
- 11.3 The proposed use is considered not incompatible with the surrounding land uses which are rural in character intermixed with vacant land, open storage/storage yards, vehicle parks and workshop. The Chief Town Planner/Urban Design and Landscape of the Planning Department considers that significant adverse landscape impact arising from the proposed use is not anticipated and has no objection to the application from landscape planning perspective.
- 11.4 The Site is involved in an approved previous application (No. A/YL-PH/915) for the same use submitted by the same applicant as the current application as detailed in paragraph 5.1 above. While the planning permission was revoked in February 2024 due to non-compliance with the approval conditions related to implementation of drainage and FSI proposals, the applicant has submitted the relevant proposals and a record of the implemented drainage facilities in support of the current application which are accepted by CE/MN of DSD and D of FS. 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.

- 11.5 Other relevant departments consulted including the Commissioner for Transport have no objection to or no adverse comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Should the application be approved, 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 any potential environmental nuisance.
- 11.6 Regarding the public comments as stated in paragraph 10, the departmental comments and planning considerations above are relevant.

12 Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers that the proposed use could be tolerated for a period of three years.
- 12.2 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 public announcement system, portable loudspeaker or any form of audio amplification system and whistle blowing is allowed to be used on the site during the planning approval period;
- (b) no medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractors/trailers, 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;
- (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 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 IV**.

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

the proposed 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, and 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.

13 Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 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.
- 13.3 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.

14 Attachments

Appendix I	Application form with supplementary information received on 12.3.2024 and 18.3.2024
Appendix Ia	FI received on 30.4.2024
Appendix II	Previous applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Site layout plan
Plan A-1	Location plan

Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
MAY 2024**