

RNTPC Paper No. A/YL-PH/857B
For Consideration by
the Rural and New Town
Planning Committee
on 23.7.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/857

- Applicant** : Chief Force Limited represented by Top Bright Consultants Limited
- Site** : Lots 1869 (Part), 1870 (Part), 1872 (Part), 1873 (Part), 1875 RP (Part), 1876 and 1877 in D.D. 111, Pat Heung, Yuen Long, New Territories
- Site Area** : 3,526m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Public Vehicle Park with Ancillary Site Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary public vehicle park with ancillary site office for a period of three years. The Site is zoned “AGR” on the approved Pat Heung OZP and the applied use is neither a Column 1 nor Column 2 use in the “AGR” zone. According to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of three 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 vacant and covered with some vegetation (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development involves 75 parking spaces for private cars to meet the parking demand of the nearby villagers. There will also be one 1-storey structure (not more than 2.5m in height) with a area of about 30m² for ancillary site office. The operation hours are 24 hours daily, including public holidays. No vehicle exceeding 5.5 tonnes will be allowed to park within the Site. The Site is accessible by Leung Shing Road and a local track leading to Kam Tin Road. The site layout plan submitted by the

applicant is at **Drawing A-1**.

- 1.3 The Site was the subject of two previous planning applications (No. A/YL-PH/235 and 566) for temporary open storage of construction materials use. Both applications were rejected by the Rural and New Town Planning Committee (the Committee) in 1998 and 2008 respectively.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with planning statement and plans received on 14.9.2020 **(Appendix I)**
 - (b) Further Information (FI) received on 29.10.2020, 7.1.2021, 8.2.2021 and 16.7.2021 in response to departmental comments* **(Appendices Ia, Ib, Id and If respectively)**
 - (c) FI received on 4.2.2021 and 26.5.2021 in response to departmental comments** **(Appendices Ic and Ie respectively)**

**exempted from publication requirement*

***not exempted from publication requirement*

- 1.5 On 6.11.2020 and 26.3.2021, the Committee agreed to defer a decision on the application to allow time for the applicant to prepare FI to address departmental comments. After the deferral requests, the applicant submitted FIs from 7.1.2021 to 16.7.2021 in response to departmental comments. The application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form, the planning statement and FIs in **Appendices I to If**. They can be summarized as follows:

- (a) The proposed use is to serve the nearby local villagers of the Wang Toi Shan area from the adjoining “Village Type Development” (“V”) zone. The provision of public transport in the vicinity is inadequate, and the locals have reservation on travelling by public transport in light of the pandemic. As such, there is a genuine demand for local residents to travel by private car. At present, there are no proper private car parking spaces and the cars are currently parked at the side of the road side which causes safety concern to other road users. The proposed use will help regulate parking in the area and improve the traffic conditions in the vicinity.

- (b) The proposed development is compatible with the surrounding land uses. No adverse environmental, visual, drainage and traffic impacts on the surrounding areas are anticipated. The temporary nature of the proposed development would not frustrate the long-term planning intention of the “AGR” zone.
- (c) The Site will be fenced off to avoid nuisance caused to nearby receivers, and various measures will be adopted to minimize potential impact on the surrounding areas, including no noise generating activities (such as workshop, vehicle painting, or repair).

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 requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and notifying Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is not subject to planning enforcement action.

5. **Previous Applications**

The Site was the subject of two previous planning applications (No. A/YL-PH/235 and 566) for temporary open storage of construction materials submitted by applicants different from the current application. Both applications were rejected by the Committee in 1998 and 2008 respectively for similar reasons that the proposed developments were not in line with the planning intention of the “AGR” and “V” (No. A/YL-PH/235 only) zones; the proposed developments did not comply with the then Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses; the proposed vehicular access leading to the sites from Kam Tin Road would be via a substandard track passing through existing village settlements, and adverse noise and traffic impacts would be generated (No. A/YL-PH/235 only); there was insufficient information to demonstrate the developments would not have adverse impact on the surroundings; and approval of the applications would set undesirable precedents for similar uses in the same zone. Details of the applications are summarized in **Appendix II** and their locations are shown on **Plan A-1b**.

6. **Similar Applications**

There are two similar applications for temporary public vehicle park within the same “AGR” zone in the vicinity of the Site on the Pat Heung OZP. Application No. A/YL-PH/758 involved proposed parking spaces for private cars and heavy vehicles not over 24 tonnes (including lorries and coaches), and application No. A/YL-PH/799 involved proposed parking spaces for private cars and light goods vehicles (not exceeding 5.5 tonnes) (**Plan A-1a**). Both applications were rejected by the Board on review in 2018 and by the Committee in 2019 mainly on similar considerations that the proposed developments were not in line with the planning intention of the “AGR” zone; the applicants failed to demonstrate the development would not generate adverse environmental impacts on the surrounding areas (No. A/YL-PH/758 only); and approval of the applications would set undesirable precedents for similar uses in the “AGR” zone. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1a**.

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

7.1 The Site is:

- (a) vacant and covered with some vegetation; and
- (b) accessible via Leung Shing Road and a local track leading from Kam Tin Road.

7.2 The surrounding area is rural in character intermixed with open storage yards, warehouse, parking of vehicles, residential structures / dwellings and vacant / unused land:

- (a) to the north, east and south in the same “AGR” zone are open storage yards (including two with valid planning permissions), warehouse and vacant / unused land;
- (b) to the further north in the adjacent “V” zone are parking of vehicles, open storage yards, residential structures / dwellings and vacant / unused land; and
- (c) to the west is Leung Shing Road and the Shek Kong Stabling Sidings of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL).

8. Planning Intention

The planning intention of the “AGR” zone is primarily intended 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. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views are summarized as follows:

Land Administration

9.1.1 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) Within the Site, Lot 1870 is covered by Short Term Waiver (STW) 4047 permitted for temporary open storage of backdrop screens, advertising aluminium frames and construction materials.
- (c) If the planning application is approved, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate, and the lot owner(s) of the lot(s) without STW will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application 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

9.1.2 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 the Transport Department. 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.

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

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Kam Tin Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) There was no environmental complaint concerning the Site received in the past three years.
- (b) The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites”.

Landscape

9.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) She has no objection to the application from the landscape planning perspective.
- (b) Based on the aerial photo taken on 29.11.2019, the Site is situated in an area of disturbed rural landscape character comprising of scattered tree groups, temporary structures and open storages. The proposed development is not entirely incompatible with the landscape character of the area.
- (c) Referring to a site visit dated 5.10.2020, the Site is vacant and covered with self-seeding vegetation. A number of existing tree of common species including *Celtis sinensis* (朴樹), *Dimocarpus longan* (龍眼), *Ficus hispida* (對葉榕), *Flueggea virosa* (白飯樹), *Macaranga tanarius* (血桐) are found to the north of the Site, while an invasive species *Leucaena leucocephala* (銀合歡) are found along the western, northern and eastern boundary. Referring to the application, the proposed site layout is in conflict with some existing trees in the eastern part of the Site. In view that the affected tree species are common species and easily sourced in the local market, further significant adverse landscape impact arising from the proposed development is not anticipated.
- (d) The applicant is reminded that approval of the planning application under the Town Planning Ordinance does not imply approval of the tree preservation / removal scheme under the lease. The applicant should seek comments and approval from the relevant authority on the proposed tree works and compensatory planting proposal, where appropriate.

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.

- (b) Should the application be approved, approval conditions on the submission of a drainage proposal, and implementation and maintenance of the drainage proposal for the development should be included.

Agriculture and Nature Conservation

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

- (a) The Site falls within the “AGR” zone and is current a vacant land. 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, plant nurseries etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.
- (b) However, noting that the Site is vacant, he has no adverse comments on the application from nature conservation perspective.

Fire Safety

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

- (a) He has no objection in principle to the proposal 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 FSI 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 (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

9.1.9 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 their suitability for the use proposed in the application.
- (b) Before any new building works (including containers / open sheds as temporary buildings, demolition and land filling 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 (BO).
- (c) His detailed comments on UBW and provision of access are at **Appendix V**.
- (d) Detailed checking under the BO will be carried out at building plan submission stage.

District Officer's Comments

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

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

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

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

10. Public Comments Received During Statutory Publication Period

On 22.9.2020, 19.2.2021 and 8.6.2021, the application was published for public inspection. During the three-week statutory publication periods, 11 public comments (**Appendices IV-1 to IV-11**) were received from Kadoorie Farm and Botanical Garden Corporation, World Wide Fund for Nature Hong Kong, Hong Kong Bird Watching Society and three individuals. All of them object to the application mainly on the grounds that the proposed development would result in adverse traffic, environmental and fire safety impact, thus affecting the safety and living quality of villagers; the proposed development is not in line with the planning intention of the “AGR” zone; approval of the application would set an undesirable precedent for other similar applications; the Site was subject to vegetation clearance and storage use and previous enforcement case and there is no sizeable residential cluster nearby to justify the proposed public car park.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary public vehicle park with ancillary site office for a period of 3 years at the “AGR” zone. The planning intention of the “AGR” zone is primarily intended 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. Although the applied use is not in line with the planning intention of the “AGR” zone and DAFC does not support the application from agricultural point of view, it is considered that approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “AGR” zone.
- 11.2 The Site is bounded by two open storage yards with planning permission on the south and southeast, the Shek Kong Stabling Sidings of the XRL to the west, and the “V” zone to the north. The proposed development is considered not incompatible with the surrounding land uses which is rural in character intermixed with open storage yards, residential structures / dwellings and vacant / unused land.
- 11.3 The applicant stated in the submission that the temporary public vehicle park is mainly for serving the parking needs of nearby local villagers in the Wang Toi Shan area. No additional traffic is expected to be induced on Kam Tin Road or other district road networks due to the proposed development. C for T, in this regard, has no objection to the application from the traffic engineering point of view. Other relevant departments consulted, including DEP, CE/MN of DSD and D of FS have no objection to or adverse comment on the application. To minimize the possible environmental nuisance generated, approval conditions restricting vehicle types are recommended in paragraphs 12.2 (a) to (c) below. Besides, the applicant will be advised to adopt the latest “Code of Practice on

Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 12.2 (d) to (i) below.

- 11.4 The Site is subject to two previous applications for temporary open storage uses, both of which were rejected in 1998 and 2008 for reasons set out in paragraph 5. The current application is for a different use. Although two similar applications (No. A/YL-PH/758 and 799) for temporary public vehicle park within the same “AGR” zone were rejected before as detailed in paragraph 6 above, it should be noted that application No. A/YL-PH/758 involved the parking of heavy goods vehicles, and there were adverse comments on the landscape impact of both applications and approval of which would set undesirable precedents for other similar applications. Since the current application does not involve the parking of heavy goods vehicles and there is no objection from CTP/UD&L of PlanD, approval of this application is thus in line with the Committee’s previous decisions.
- 11.5 A total of eleven comments objecting to the application were received during the statutory publication period as mentioned in paragraph 10 above. In this regard, relevant Government departments’ comments as well as planning assessments and considerations as stated 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 temporary public vehicle park with ancillary site office could be tolerated for a period of 3 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 3 years until 23.7.2024. 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 to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (b) no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations are allowed to be parked/stored on the Site at any time during the planning approval period;

- (c) a notice should be posted at a prominent location of the Site to indicate that 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 all times during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 23.1.2022;
- (f) in relation to (e) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 23.4.2022;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 23.1.2022;
- (i) in relation to (h) above, the implementation of the 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 23.4.2022;
- (j) if any of the above planning condition (a), (b), (c), (d) 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;
- (k) if any of the above planning condition (e), (f), (h) or (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; and
- (l) 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 at **Appendix V**.

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

the proposed development is not in line with the planning intention of the "AGR" zone, which is primarily intended 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. There is no strong planning justification 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 Planning Statement and Plans received on 14.9.2020
Appendix Ia	FI received on 29.10.2020
Appendix Ib	FI received on 7.1.2021
Appendix Ic	FI received on 4.2.2021
Appendix Id	FI received on 8.2.2021
Appendix Ie	FI received on 26.5.2021
Appendix If	FI received on 16.7.2021
Appendix II	Previous Applications covering the Site

Appendix III Similar Applications within the same “AGR” zone on the
Pat Heung OZP

Appendices IV-1 to IV-11 Public Comments

Appendix V Advisory Clauses

Drawing A-1 Layout 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
JULY 2021**