

RNTPC Paper No. A/YL-PH/881
For Consideration by
the Rural and New Town
Planning Committee
on 11.6.2021

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

APPLICATION NO. A/YL-PH/881

<u>Applicant</u>	: Chief Force Limited
<u>Site</u>	: Lots 2901 (Part), 2902 (Part), 2904 (Part), 2905 (Part), 2909 (Part) and 2911 (Part) in D.D. 111 and Adjoining Government Land, Pat Heung, Yuen Long
<u>Site Area</u>	: 2,162.31m ² (about) (including about 298.5m ² Government Land (14%))
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<u>Zoning</u>	: “Residential (Group D)” (“R(D)”) [restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m)]
<u>Application</u>	: Renewal of Planning Approval for Temporary Open Storage of Construction Materials and Vehicle Parts 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 construction materials and vehicle parts for a period of 3 years. The applied use is neither a Column 1 nor Column 2 use for the “R(D)” 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 used for the applied use with planning permission (**Plans A-2 to A-4b**). All the approval conditions of the last approved application (No. A/YL-PH/776) have been complied with and the planning permission is valid until 19.6.2021.

- 1.2 According to the applicant, three structures with a total floor area of about 420m² and building height of 2.5m and 6m (1 to 2 storeys) are erected within the Site for office, staff rest room and service box. A loading/unloading space for light goods vehicles is provided within the Site. The operation hours are between 9 a.m. and 6 p.m. from Mondays to Saturdays, and there is no operation on Sundays and public holidays. No workshop-related activities will be carried out on-site. No goods vehicle exceeding 5.5 tonnes will enter/exit the Site. The Site is accessible from Kam Tin Road via a local track. The Site layout plan as submitted by the applicant is at **Drawing A-1**.
- 1.3 When compared with the last approved application (No. A/YL-PH/776), the current application submitted by the same applicant is the same in terms of applied use, site area / boundary, layout, number of structure and total floor area.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form and supplementary planning statement with plans received on 19.4.2021 (**Appendix I**)
 - (b) Supplementary Information received on 10.5.2021 (**Appendix Ia**)
 - (c) Further information (FI) received on 31.5.2021 and 1.6.2021 in response to departmental comments (**Appendix Ib**)
(*exempted from publication requirement*)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary planning statement and FI in **Appendices I** and **Ib** respectively. They can be summarized as follows:

- (a) The current application is a renewal application to the last approved Application No. A/YL-PH/776 with no major change in the applied use. There was no adverse departmental comment and public concern/objection from nearby residents. The Site is properly used and all approval conditions under the last application have been complied with. The existing plantings, drainage facilities and fire service installations facilities on site will be well maintained and preserved.
- (b) The temporary structures will only be used for office and resting purposes during operation hours. No staff will stay overnight and the Site will not be used for residential purposes.

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

The applicant is not a “current land owner” of the private land portion 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. For the Government Land (GL) portion, the “Owner’s Consent / Notification” Requirements are not applicable.

4. Town Planning Board Guidelines

4.1 Town Planning Board Guidelines on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG-No. 34C) are relevant to this application. The relevant assessment criteria are extracted below:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
- (d) whether the approval period sought is reasonable; and
- (e) any other relevant considerations.

4.2 The Town Planning Board Guidelines on ‘Application for Open Storage and Port Back-up Uses’ (TPB PG-No.13F) promulgated by the Board on 27.3.2020 are relevant to this application. The Site falls within a Category 2 area under the TPB PG-No. 13F. The relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

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

6. Previous Applications

- 6.1 The Site was involved in 9 previous planning applications for various open storage and workshop uses. Details of the applications are summarized in **Appendix III** and the locations of the sites are shown on **Plan A-1b**.

One Rejected Application

- 6.2 Application No. A/YL-PH/161 for temporary open storage of goods vehicles and goods vehicle repairing workshop for 12 months was rejected by the Committee in 1998 mainly on the grounds that the proposed development was not in line with the planning intention of the “R(D)” zone; there was no information to demonstrate that the development would not have adverse drainage impact on the surrounding areas; there was no justification to allow such open storage uses to proliferate in the “R(D)” zone; and the approval of the application would set an undesirable precedent.

Eight Approved Applications

- 6.3 Eight applications for various temporary open storage uses were approved with conditions by the Committee between 2009 and 2018 mainly on the grounds that the development was not incompatible with the surrounding areas; the approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(D)” zone; the access road leading to the site would not pass by residential structures; the proposed development generally complied with the then Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ in that there were previous approvals within the site; similar applications nearby had been approved by the Committee; and generally there were no objection from government departments or the technical concerns could be addressed by approval conditions. However, the planning permissions of three applications were revoked due to non-compliance with approval conditions. For the last application No. A/YL-PH/776¹ for the same applied use as the current application and submitted by the same applicant, all the approval conditions have been complied with and the planning permission is valid until 19.6.2021.

7. Similar Applications

- 7.1 There are 21 similar applications for various temporary open storage uses within the same “R(D)” zone or straddle partly within the adjoining “Agriculture” (“AGR”) zone on the Pat Heung OZP since the promulgation of the then TPB PG-No. 13E on 17.10.2008. Details of these applications are summarized in **Appendix IV** while the locations of the sites are shown on **Plan A-1a**.

¹ Under the previous TPB PG-No. 13E which was in force when application No. A/YL-PH/776 was considered, the site was within a Category 3 area. The Site falls within a Category 2 area under the current TPB PG-No. 13F.

- 7.2 18 applications were approved with conditions by the Committee between 2009 and 2020 mainly on similar considerations as stated in paragraph 6.3 above. However, 8 planning approvals were revoked due to non-compliance with the approval conditions.
- 7.3 The other three applications were rejected by the Committee between 2009 and 2019 mainly on the grounds that the developments did not comply with the then TPB PG-No. 13E; there was insufficient information to demonstrate that the developments would not have adverse drainage and/or environmental impacts on the surrounding areas; the development was not in line with the relevant planning intention(s); and approval of the application would set an undesirable precedent for other similar applications.

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

- 8.1 The Site is:
- (a) currently paved and used for the applied use with planning permission; and
 - (b) accessible via a local track leading to Kam Tin Road.
- 8.2 The surrounding areas are rural in character intermixed with open storage / storage yards, warehouse, workshop, residential structures / dwellings and vacant / unused land:
- (a) to the north, south and east in the “R(D)” zone are open storage / storage yards, workshop, warehouse and vacant / unused land; and
 - (b) to the west in the adjacent “Village Type Development” (“V”) zone are residential structures / dwellings, warehouse and open storage yards.

9. Planning Intentions

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 GL (about 298.5m² subject to verification) and 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, the GL and part of the private lots are covered by the following Short Term Tenancy (STT) and Short Term Waiver (STW):

STT/STW Nos.	Lot Nos. in D.D. 111	Permitted Use
STT 3033	GL	Temporary Open Storage of Construction Materials and Vehicle Parts
STW 2916	2902 (Part)	Storage of Construction Materials
STW 3931	2901	Temporary Open Storage of Construction Materials, Machinery (Electricity Generator), Vehicle Parts, Temporary Transit Shipment Particles and Containers for Storage of Plastic Barriers

- (c) It is noticed that staff rest room and staff quarters are proposed. According to the established practice, application for STW of structures for domestic / residential uses on private agricultural land will not be entertained. Hence, even if the Board approves the planning application, his office will not consider approving / regularizing any structure(s) erected / to be erected on the lots for domestic / residential uses.
- (d) Should the application be approved, the STW / STT holder(s) will need to apply to his office for modification of the STW / STT conditions where appropriate, and the owner(s) of the lot(s) without STW will need to apply to his office to permit the structures to be erected or regularise any irregularities on the 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. Application 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 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 LandsD.

Traffic

10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no comment on the renewal 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.

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

- (a) His department 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

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

- (a) There was no environmental complaint concerning at the Site 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 Aspects of Temporary Uses and Open Storage Sites” issued by the DEP.

Landscape

10.1.5 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) With reference to the aerial photo of 2020, the Site is situated in an area of rural landscape character comprising of scattered tree groups, open storages and small houses. Open storages are found to the north, east and south within the “R(D)” zone, while small houses are concentrated to the west of the Site within the “V” zone. No significant change is observed in the adjacent area since the last application No. A/YL-PH/776, and the development is not incompatible with the landscape character of the surrounding areas.
- (c) According to the site photos taken on 27.4.2021, the existing landscape treatments implemented for the previous applications were in fair condition. Adverse impact on landscape character and existing landscape resources arising from the continual use of temporary open storage is not anticipated.
- (d) Approval of the application under s.16 of 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.

Nature Conservation

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

Noting that the Site has been paved and is subject to a number of previous applications approved by the Board, he has no comment on the planning application from nature conservation point of view.

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) Presumably, the applicant would maintain the same drainage facilities as those implemented under the previous planning application No. A/YL-PH/776. The applicant should inform relevant department if the drainage arrangement has been changed.
- (c) Should the application be approved, approval conditions on the maintenance of the drainage facilities implemented under Application No. A/YL-PH/776 and submission records of the existing drainage facilities on the Site should be included.

Fire Safety

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

He has no in-principle objection to the renewal application subject to the existing Fire Service Installations (FSIs) implemented on site being maintained in efficient working order at all times.

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 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 shed 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, provision of access, temporary or licensed structures are at **Appendix VI**.
- (d) Detailed checking under the BO will be carried out at building plan submission stage.

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 particular comments on the application.

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

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

11. Public Comment Received During Statutory Publication Period

On 27.4.2021, the application was published for public inspection. During the three-week statutory publication period, one public comment was received from an individual (**Appendix V**), objecting to the application mainly on the grounds that the development would result in adverse traffic, environmental and fire safety impact, thus affecting the safety and living quality of villagers.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of the planning permission for temporary open storage of construction materials and vehicle parts for a period of 3 years in the "R(D)" zone. 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, and for low-rise, low-density residential developments subject to planning permission from the Board. Although the applied use is not in line with the planning intention of the "R(D)" zone, there is no known proposal for permanent development at the Site. It is considered that approval of the application on a temporary basis would not jeopardize the long-term planning intention of the "R(D)" zone.
- 12.2 The development is considered not incompatible with the surrounding land uses which are rural in character intermixed with open storage yards, residential structures / dwellings and vacant/unused land.
- 12.3 According to TPB PG-No. 13F, the Site falls within Category 2 areas. The following guidelines are relevant:

Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

- 12.4 The application is generally in line with the TPB PG-No. 13F and TPB PG-No. 34C in that previous approvals for open storage use had been granted since 1999 and all the approval conditions of the last approved application (No. A/YL-PH/776) have been complied with. There is also no adverse comment from the relevant departments. Compared with the last approved application, the current application submitted by the same applicant is the same in terms of use, site area / boundary, layout, number of structures and total floor area. Besides, there is no major change in planning circumstances since the last approval.
- 12.5 Concerned departments consulted have no objection to the application. To minimize the possible environmental nuisance, approval conditions restricting the operation hours, types of vehicles and prohibiting workshop activities are recommended in paragraphs 13.2(a) to (d) below. The applicant will also be advised to adopt the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites'. The technical requirements of C for T, CE/MN, DSD and D of FS could be addressed by imposing approval conditions (e) to (h) in paragraph 13.2 below.
- 12.6 One public comment objecting to the application was received during the statutory publication period as stated in paragraph 11 above. In this regard, the department comments and planning considerations and assessments as mentioned above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11, the Planning Department considers that the temporary open storage of construction materials and vehicle parts 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 20.6.2021 to 19.6.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00p.m. and 9:00a.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 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;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on the Site at any time during the planning approval period;
- (e) the stacking height of construction materials stored within 5 metres of the periphery of the Site should not exceed the height of the boundary fence of the Site at any time during the planning approval period;
- (f) the existing boundary fencing on the Site should be maintained at all times during the planning approval period;
- (g) no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period;
- (h) the existing drainage facilities 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 20.9.2021;
- (j) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g), (h) or (j) 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 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 planning conditions are largely the same as those under the planning permission of previous Application No. A/YL-PH/776, except deletion / change of those on landscape, drainage facilities and FSI based on the comments of CTP/UD&L of PlanD, CE/MN of DSD and D of FS.]

Advisory Clauses

The recommended advisory clauses are attached at **Appendix VI**.

13.3 There is no strong reason to reject the renewal application.

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 approval.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses, 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 and supplementary planning statement with plans received on 19.4.2021
Appendix Ia	SI received on 10.5.2021
Appendix Ib	FI received on 31.5.2021 & 1.6.2021
Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Previous s.16 applications covering the Site
Appendix IV	Similar applications within the same “R(D)” or straddling the same “R(D)” and “AGR” zones on the approved Pat Heung OZP
Appendix V	Public comment received during the statutory publication period
Appendix VI	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
Plans A-4a & 4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2021**