

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

APPLICATION NO. A/YL-PH/885

<u>Applicant</u>	: Chief Force Limited
<u>Site</u>	: Lots 1864 RP (Part), 1865 (Part), 1866(Part), 1867 (Part), 1868 (Part), 3047 (Part) and 3048 (Part) in D.D. 111, Pat Heung, Yuen Long
<u>Site Area</u>	: 3,650m ² (About)
<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>	: “Agriculture” (“AGR”)
<u>Application</u>	: Renewal of Planning Approval for Temporary Open Storage of Construction Materials 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 for a period of 3 years. The applied use is neither a Column 1 nor Column 2 use for 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 used for the applied use with a valid planning permission (Application No. A/YL-PH/782) (**Plans A-2 to A-4b**).
- 1.2 According to the information provided by the applicant, there is no change to the applied use, site area / boundary and layout as approved under the last application No. A/YL-PH/782. The ingress/egress is located at the western boundary of the Site and the Site is accessible to Kam Tin Road via a local track. Two parking spaces for private cars / light goods vehicles are provided within the Site. The

operation hours are between 9:00a.m. and 6:00p.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 layout plans submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.3 The Site is the subject of eight previous applications for various temporary open storage uses/ composting use. All applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) from 1997 to 2018 except application No. A/YL-PH/235 which was rejected by the Committee on 30.10.1998. The last two applications No. A/YL-PH/719 and 782 for the same applied use and submitted by the same applicant as the current application were approved with conditions by the Committee on 7.8.2015 and 1.6.2018 both for a period of 3 years. All approval conditions of the last approved application (No. A/YL-PH/782) have been complied with. The planning permission is valid until 7.8.2021.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form and supplementary information (Appendix I) received on 21.5.2021
 - (b) Further information (FI) received on 24.6.2021 in (Appendix Ia) response to departmental comments*
 - (c) FI received on 5.7.2021 in response to departmental (Appendix Ib) comments*

** 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 application form and supplementary information in **Appendices I, Ia and Ib**. They can be summarized as follows:

- (a) The current application has no major change when compared with the last approved Application No. A/YL-PH/782 and there were no adverse departmental comments and public concern / objection during the last application. The Site is properly used and all approval conditions under the last approval have been complied with. The existing landscape, drainage and fire service installations will be maintained and preserved.
- (b) There will be no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities, and no vehicles over 5.5 tonnes will be involved.
- (c) The development would not result in adverse impacts on the surrounding area.

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 site notice and notifying Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

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 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 is involved in 8 previous planning applications for various open storage or temporary open composting uses¹. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1b**.

One Rejected Application

- 6.2 Application No. A/YL-PH/235, covering a much larger site area including the current Site, for nine temporary open storage yards of construction materials for a period of 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 “AGR” and “Village Type Development” (“V”) zones; the development did not comply with the then Town Planning Board Planning Guidelines for “Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance”; the proposed vehicular access leading to the site from Kam Tin Road would be via a sub-standard track and would result in adverse noise and traffic impacts; there was insufficient information to demonstrate that the development would not have adverse drainage impact on the surrounding areas; and approval of the application would set an undesirable precedent.

Seven Approved Applications

- 6.3 Four applications (No. A/YL-PH/99, 255, 330 and 575) for temporary composting / open composting uses were approved with conditions by the Committee between 1997 and 2009 mainly on similar grounds that the organic fertiliser produced could serve the nearby cultivation uses; the developments were considered not incompatible with the surrounding areas; previous approvals had been granted for the same use; and concerned Government departments generally had no adverse comment.
- 6.4 Three applications (No. A/YL-PH/659, 719 and 782) for various temporary open storage uses were approved with conditions by the Committee between 2013 and 2018 mainly on the grounds that the developments generally complied with the then Town Planning Board Planning Guidelines for “Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance”; approval of the applications would not frustrate the long-term planning intention of the “AGR” zone; the proposed developments were considered not incompatible with the surrounding areas; and relevant Government departments generally had no adverse comment. However, the planning permission for application No. A/YL-PH/659 was revoked on 8.11.2013 due to non-compliance with approval condition.
- 6.5 For the last two applications No. A/YL-PH/719 and 782 for the same applied use as the current application and submitted by the same applicant, all the

¹ Application No. A/YL-PH/698 covering a small portion of the site (i.e. Lot 1866 in D.D. 111) is considered as similar application in paragraph 7.

approval conditions have been complied with. The planning permission for Application No. A/YL-PH/782 is valid until 7.8.2021.

7. Similar Applications

- 7.1 There are 26 similar applications for various temporary open storage / storage uses within the same “AGR” zone or straddling partly within the adjoining “V” and “Open Storage” (“OS”) zones 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**.
- 7.2 20 applications were approved with conditions by the Committee between 2010 and 2021 mainly on similar considerations as stated in paragraph 6.4 above. However, eight planning approvals were revoked due to non-compliance with the approval conditions.
- 7.3 The other six applications were rejected by the Committee or by the Board on review between 2012 and 2018 mainly on the grounds that the developments were not in line with the relevant planning intention(s); the developments did not comply with the then TPB PG-No. 13E; the applicants had failed to demonstrate the developments would not have adverse drainage and environmental impacts on the surrounding areas; and approval of the applications would set undesirable precedents.

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

- 8.1 The Site is:
- (a) paved and used for the applied use with a valid planning permission (Application No. A/YL-PH/782); 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 yards, warehouses, parking of vehicles some residential structures / dwellings and vacant / unused land:
- (a) to the south in the “AGR” zone and to the east in the adjacent “OS” zone are open storage / storage yards, warehouses, plant nursery and vacant / unused land; and
 - (b) to the north in the adjacent “V” zone are open storage yards, residential structures / dwellings and vacant / unused land.

9. Planning Intention

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.

10. Comments from Relevant Government Departments

- 10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

- 10.1.1 Comments of the District Lands Officer, Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Scheduled 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) It is noted that no structure was proposed in the application.

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 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) According to the aerial photo of 2020, the Site is located in an area of rural inland plains landscape character surrounded by open storages. The Site is already in operation, further significant adverse landscape impact arising from the continuous open storage use within the Site is not anticipated. Furthermore, the current renewal application for the same open storage use is considered not entirely incompatible with the surrounding environment.

Nature Conservation

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

Considering that the previous application for the same use as the current application was approved by the Board taking into account his previous

comments, he has no strong view against the application for renewal of planning approval.

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/782.
- (c) Should the application be approved, approval conditions on the maintenance of the drainage facilities implemented under Application No. A/YL-PH/782 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) There is no record of approval by the Building Authority (BA) for the 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) 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 VI.**

Water Supplies

10.1.10 Comments of the Chief Engineer / Construction, Water Supplies Department (CE/C, WSD):

He has no objection to the application subject to the following:

- (a) The Site falls within the existing 10m wide waterworks reserve (WWR) of the 48" Dongjiang Water Main (**Plan A-2**). No new structure shall be erected over this WWR and such area shall not be used for storage of materials and car-parking purpose;
- (b) The Water Authority and his officers and contractors, his or their workmen shall have free access at all times to the WWR with necessary plant and vehicles for the purpose of construction, inspection, operation, maintenance and repair works. All other services across, through or under the WWR are required to seek authorization from the Water Authority;
- (c) No new trees or shrubs with penetrating roots may be planted within the WWR or in the vicinity of the water main; and
- (d) The Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in vicinity of the Site.

Electricity Safety

10.1.11 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no comment on the application from electricity supply safety point of view.
- (b) In the interest of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the mentioned application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation

and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer’s Comments

10.1.12 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 on the application:

- (a) Project Manager (West), Civil Engineering and Development Department; and
- (b) Commissioner of Police.

11. Public Comments Received During Statutory Publication Period

On 28.5.2021, the application was published for public inspection. During the three-week statutory publication period, two public comments were received from individuals (**Appendices V-1 and V-2**), 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; the application will affect the ability for areas zoned “AGR” to be used for agricultural purposes; and the Site could be amalgamated with its surrounding land for housing development.

12. Planning Considerations and Assessments

12.1 The application is for renewal of the planning permission for temporary open storage of construction materials for a period of 3 years in the “AGR” zone. 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. Although the development is not in line with the planning intention of the “AGR” zone, DAFC has no strong view against the application. It is considered that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “AGR” zone.

12.2 The development is considered not incompatible with the surrounding land uses which are rural in character intermixed with open storage yards, warehouses, parking of vehicles, some 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 2013 and all the approval conditions of the last approved application (No. A/YL-PH/782) 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 applied use, site area / boundary and layout (**Drawings A-1 to A-3**). Besides, there is no major change in planning circumstances since the last approval.
- 12.5 Concerned Government 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 Two public comments objecting to the application were 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 comments mentioned in paragraph 11, the Planning Department considers that the temporary open storage of construction materials 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 8.8.2021 to 7.8.2024. 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) no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period;
- (f) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) 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 8.11.2021;
- (h) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (i) if any of the above planning condition (a), (b), (c), (d), (e), (f) or (h) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (j) if the above planning condition (g) 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
- (k) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

[The above planning conditions are largely the same as those under the planning permission of previous Application No. A/YL-PH/782, except deletion / change of those on landscape and FSIs based on the comments of CTP/UD&L of PlanD and D of FS.]

Advisory Clauses

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

13.3 There is no strong reason to recommend rejection of 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 Information received on 21.5.2021
Appendix Ia	FI received on 24.6.2021
Appendix Ib	FI received on 5.7.2021
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 “AGR” or straddling the same “AGR” with the adjacent “V” and “OS” zones on the approved Pat Heung OZP
Appendices V-1 and V-2	Public Comments received during the Statutory Publication Period
Appendix VI	Advisory Clauses
Drawings A-1 and A-2	Layout Plans
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**