

RNTPC Paper No. A/YL-PH/888
For Consideration by
the Rural and New Town
Planning Committee
on 10.9.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/888

<u>Applicant</u>	:	Chief Force Limited
<u>Site</u>	:	Lots 2007 (Part) and 2018 S.A (Part) in D.D. 111, Pat Heung, Yuen Long
<u>Site Area</u>	:	About 427m ²
<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>	:	“Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<u>Application</u>	:	Proposed Temporary Shop and Services (Motor Vehicles Showroom) 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 shop and services (motor vehicles showroom) for a period of 3 years. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within the “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is fenced and occupied by temporary structures for open storage of vehicle parts without valid planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, two one to two-storey structures with a total floor area of 150m² and not more than 5.5m in height will be erected for site office and staff rest room (about 96m²), and an open shed display area (about 54m²). A total of five motor vehicle display areas will be provided within the Site. The operation hours will be 10:00 a.m. to 7:00 p.m. daily (excluding Fridays). One car parking space for private car and one loading/unloading space for light goods vehicles will be provided on-site. The Site is accessible from Kam Tin Road via a local track. The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is the subject of two previous applications. Application No. A/YL-PH/338, covering a minor portion of the Site, for temporary open storage of abandoned vehicles for stripping and vehicles parts was rejected by the Rural and New Town Planning Committee (the Committee) in August 2000. The other application (No. A/YL-PH/870) covering the same Site and submitted by the same applicant as the current application, for proposed temporary shop and services (exclusive retail and wholesale of second-hand tyres) was approved with conditions by the Committee on 22.1.2021 and is valid until 22.1.2024. Details of these two previous applications are set out in paragraphs 5.2 and 5.3 below.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary statement and **(Appendix I)** plans received on 12.7.2021
 - (b) Further Information (FI) received on 19.8.2021 and **(Appendix Ia)** 20.8.2021 in response to department 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, supplementary information and FIs in **Appendices I** and **Ia**. They can be summarized as follows:

- (a) Due to the pandemic, the previous use approved at the Site for temporary retail and wholesale of second-hand tyres use can no longer be sustained, thus a switch to a new business is needed.
- (b) The application is on a temporary basis and would not jeopardize the long-term planning intention of the “V” zone.
- (c) No workshop activities will be carried out on-site. Proper fire service installations will be provided and maintained at the Site. No vehicles exceeding 5.5 tonnes will enter the Site, and no adverse traffic impact is anticipated.

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

The applicant is not a “current land owner” but has complied with the requirement 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 notice and sending notice to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Member’s inspection.

4. Background

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

5. Previous Applications

- 5.1 The Site is involved in 2 previous planning applications for temporary open storage and shop and services uses. Details of the previous applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

One Rejected Application

- 5.2 A very minor portion of the Site is involved in a previous application No. A/YL-PH/338 for temporary open storage of abandoned vehicles for stripping and vehicles part for a period of 3 years submitted by a different applicant. The application was rejected by the Committee in August 2000 mainly on the grounds that the development was not in line with the planning intention of the “V” zone; the development did not comply with the then Town Planning Board Guidelines for ‘Open Storage and Port Back-up Use’; there was no information to demonstrate why suitable site in the “Open Storage” (“OS”) zone could not be identified for the use, and that the development would not have adverse drainage impact; and approval of the application would set an undesirable precedent.

One Approved Application

- 5.3 Application No. A/YL-PH/870 submitted by the same applicant as the current application for proposed temporary shop and services (exclusive retail and wholesale of second-hand tyres) was approved with conditions by the Committee in January 2021 mainly on the grounds that temporary approval would not frustrate the long-term planning intention; the proposed development was not incompatible with the surrounding land uses; and relevant departments had no adverse comment. The planning approval is valid until 22.1.2024.

6. Similar Applications

- 6.1 There are 6 similar applications for various temporary shop and services uses, covering 3 different sites near the Site in the adjacent “V” zone across Kam Tin Road. They were all approved. Details of these applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 Applications No. A/YL-PH/850 and 880 for temporary vehicle related shop and services uses (car beauty services, and motor-vehicle showroom use) at the same site were approved with conditions in 2020 and 2021. The other four applications (No. A/YL-PH/708, 744, 788 and 839) involving 2 other sites, for proposed convenience store, provision store, daily supplies and food retail shop uses were

approved with conditions between 2015 and 2020. All the 6 applications were approved for similar considerations as stated in paragraph 5.3 above. However, application No. A/YL-PH/708 was revoked on 16.4.2017 due to non-compliance with approval conditions.

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

7.1 The Site is:

- (a) paved and fenced;
- (b) partly vacant and partly occupied by temporary structures and used for open storage of vehicle parts without valid planning permission; and
- (c) accessible from Kam Tin Road via a local track.

7.2 The surrounding areas are rural in character predominated by residential structures / dwellings, residential care homes for the elderly, open storage / storage yards and vacant/unused land:

- (a) to its north, east and west are open storage / storage yards, residential structures / dwellings (the nearest is about 10m to its northwest) and vacant / unused land. To the further north are two residential care homes for the elderly, one of which is vacant now; and
- (b) to the south in the “OS” zone where some open storage yards could be found.

8. Planning Intention

The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

- 9.1 The following Government departments have been consulted and their views on the application 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) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structure(s) 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 as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD.
- (c) There is no Small House application approved or under processing at the Site.

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 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) 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

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

- (a) There was no environmental complaint concerning the Site received by DEP 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 DEP.

Fire Safety

9.1.5 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 (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

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, implementation and maintenance of the drainage proposal to the satisfaction of the Director of Drainage Services or of the Board should be included.

Building Matters

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

District Officer's Comments

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

His office has not received any comments from the locals and has no comments on the application.

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

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

10. Public Comment Received During Statutory Publication Period

On 20.7.2021, the application was published for public inspection. During the three-week statutory publication period, a public comment from an individual was received (**Appendix IV**). The commenter objects to the application mainly on the grounds that the proposed use would result in adverse environmental impact and fire safety risk, and affect the safety and living standard of the nearby villagers.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (motor vehicles showroom) for a period of 3 years at the “V” zone. The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. The proposed use is not entirely in line with the planning intention of the “V” zone. Nevertheless, DLO/YL, LandsD advised that there is no Small House application approved or under processing at the Site. It is considered that temporary approval of the application would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The proposed use is considered not incompatible with the surrounding land uses which are rural in character predominated by residential structures / dwellings, residential care homes for the elderly, open storage yards and vacant / unused land.
- 11.3 Relevant departments consulted including C for T, DEP, CE/MN of DSD and D of FS have no objection to or no adverse comment on the application. To minimize any possible environmental nuisance, approval conditions restricting the operation hours and prohibiting workshop activities are recommended in paragraphs 12.2 (a) to (c) below. The applicant will also be advised to follow 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 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 involved in 2 previous applications. One application (No. A/YL-PH/338) for temporary open storage use was rejected by the Committee in 2000. The other application (No. A/YL-PH/870) submitted by the same applicant for similar temporary shop and services use was approved with conditions by the Committee in 2021 as detailed in paragraph 5 above. In the current application, the applicant explained that the previous temporary use for retail and wholesale of second-hand tyres approved at the Site cannot be sustained owing to the pandemic and hence a new application for temporary motor vehicles showroom use is submitted. The 6 similar applications within the adjacent “V” zone, including 2 for temporary vehicle related shop and services uses (car beauty services, and motor-vehicle showroom), were all approved with conditions by the Committee between 2015 and 2021 as stated in paragraph 6 above. Approval of this application is in line with the Committee’s previous decisions.
- 11.5 A public comment was received during the statutory publication period objecting to the application as mentioned in paragraph 10 above. In this regard, the departmental comments and planning assessments and 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 comment mentioned in paragraph 10, the Planning Department has no objection to the proposed temporary shop and services (motor-vehicles showroom) 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 10.9.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Fridays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities shall be carried out on the Site at any time 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 10.3.2022;
- (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 10.6.2022;
- (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 10.3.2022;
- (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 TPB by 10.6.2022;
- (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; and
- (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.

Advisory Clauses

The advisory clauses are in **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 development is not in line with the planning intention of the "V" zone which is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. 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 Statement and Plans received on 12.7.2021
Appendix Ia	FI received on 19.8.2021 and 20.8.2021
Appendix II	Previous Applications Covering the Site
Appendix III	Similar Applications in the Adjacent “V” Zone on the Pat Heung OZP
Appendix IV	Public Comment
Appendix V	Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**