

RNTPC Paper No. A/YL-PH/909  
For Consideration by the  
Rural and New Town  
Planning Committee  
on 6.5.2022

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

**APPLICATION NO. A/YL-PH/909**

<b><u>Applicant</u></b>	:	Chief Force Limited
<b><u>Site</u></b>	:	Lots 159 (Part), 160 (Part), 162 (Part), 163 (Part) and 164 (Part) in D.D. 108 and Adjoining Government Land, Ta Shek Wu, Pat Heung, Yuen Long
<b><u>Site Area</u></b>	:	About 4,460m <sup>2</sup> (including government land of about 845m <sup>2</sup> )
<b><u>Land Status</u></b>	:	(i) Block Government Lease (demised for agricultural use) (about 81% of the Site) (ii) Government Land (about 19% of the Site)
<b><u>Plan</u></b>	:	Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<b><u>Zoning</u></b>	:	“Residential (Group D)” (“R(D)”) [maximum plot ratio of 0.2 and building height of 2 storeys (6m)]
<b><u>Application</u></b>	:	Renewal of Planning Approval for Temporary Open Storage of Excavators and Loaders 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 excavators and loaders for a period of 3 years. The Site is zoned “R(D)” on the approved Pat Heung OZP No. S/YL-PH/11 (**Plan A-1a**) and the applied use is neither a Column 1 nor Column 2 use in the “R(D)” zone. According to the Notes of the OZP, temporary use or development not exceeding a period of three years, notwithstanding that the use or development is not provided for in terms of the OZP, requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with planning permission under application No. A/YL-PH/801 valid until 22.4.2022.
- 1.2 The Site is the subject of eight previous applications (details at paragraph 6 below). The last Application No. A/YL-PH/801 submitted by the same applicant for renewal of planning approval for the same applied use as the current application was approved with conditions by the Rural and New Town Planning Committee

(the Committee) on 8.3.2019 (for approval period from 23.4.2019 to 22.4.2022). All the approval conditions have been complied with.

- 1.3 According to the applicant, two structures with a total floor area of about 150m<sup>2</sup> and building height ranging from 2.5m to 5m (one to two storeys) are erected on the Site for container office, staff resting room and security booth uses. Excavators and loaders are stored within the open area of the Site. No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities is carried out on the Site. The operation hours are between 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays and there is no operation on Sundays and public holidays. The Site is accessible via a local track from Fan Kam Road (**Plan A-1a**). The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted the following document:
  - (a) Application form with supplementary information (Appendix I)  
received on 18.2.2022
- 1.5 In view of the situation of COVID-19 and the latest special work arrangement for government departments announced by the Government, government departments have only provided essential and limited public services, and the District Planning Offices of the Planning Department have suspended all fieldwork, including visits to the application sites for gathering background information. In this regard, the Committee, on 1.4.2022, agreed to defer making a decision on some of the applications, including Application No. A/YL-PH/909, until such information becomes available. The application is now 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 and supplementary information at **Appendix I**. They can be summarized as follows:

- (a) The current application is a renewal of the last application No. A/YL-PH/801. All the approval conditions of the last application have been complied with.
- (b) The development has not been causing any adverse impacts on the surrounding areas and nearby residents during the last planning approval period.
- (c) The existing drainage facilities, fire service installations (FSIs) facilities and landscaping on the Site will be maintained to the satisfaction of concerned departments. No adverse traffic impact on the surrounding areas is anticipated.

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

The applicant is not a “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 sending notice to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members' inspection. For the government land portion within the Site, TPB PG-No. 31A is not applicable.

#### **4. Town Planning Board Guidelines**

- 4.1 The Town Planning Board Guidelines for "Application for Open Storage and Port Back-up Uses" (TPB PG-No. 13F) promulgated by the Board on 27.3.2020 is relevant to the application. The Site falls within the Category 3 areas under the TPB PG-No. 13F. Relevant extract of the Guidelines is attached at **Appendix II**.
- 4.2 The Town Planning Board Guidelines for "Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development" (TPB PG-No.34D) are relevant to this application. Relevant extract of the Guidelines is attached at **Appendix III**.

#### **5. Background**

The Site is not the subject of any planning enforcement action.

#### **6. Previous Applications**

- 6.1 The Site, in part of in whole, is involved in eight previous applications for temporary open storage of excavators and loaders / temporary open storage of construction materials (iron frames). All the applications, except application No. A/YL-PH/240, were approved with conditions by the Committee or by the Board on review between November 2002 and March 2019. The main reasons of approval include temporary approval of the developments would not frustrate the long-term planning intention; the developments were generally in line with the then Town Planning Board Guidelines for applications for open storage use and port back-up areas and/or Town Planning Guidelines for renewal of planning approval for temporary use or development; relevant departments in general had no adverse comments or their concerns could be addressed by appropriate approval conditions. However, the planning permission for Application No. A/YL-PH/556 was revoked on 7.3.2009 due to non-compliance with the approval conditions on the submission and implementation of FSLs proposal.
- 6.2 Application No. A/YL-PH/240, involving a much larger site, for temporary open storage of construction materials (iron frames) was rejected by the Committee in November 1998 mainly on the grounds that there was insufficient information in the application to demonstrate that a proper vehicular access could be provided and the development would have no adverse drainage impact on the surrounding areas.
- 6.3 Compared with the last approved application No. A/YL-PH/801, the applied use and development parameters, including the site layout, boundary and area, number of structures and total floor area, of the current application remain

unchanged. The applicant has complied with all the approval conditions and the planning permission was valid until 22.4.2022.

- 6.4 Details of these applications are summarized in **Appendix IV** and the locations are shown on **Plan A-1b**.

## **7. Similar Applications**

- 7.1 There are 18 similar applications for various temporary open storage uses within the same “R(D)” zone in the vicinity of the Site in the past 5 years.
- 7.2 16 similar applications were approved with conditions by the Committee between March 2017 and July 2021 for similar reasons as stated in paragraph 6.1 above. However, planning permissions for 3 applications (No. A/YL-PH/742, 765 and 789) were revoked due to non-compliance with approval conditions.
- 7.3 2 similar applications (No. A/YL-PH/760 and 821) for temporary open storage of construction materials / scrap vehicles were rejected by the Committee or the Board on review in March 2018 and November 2019 respectively for main grounds that the developments did not comply with the then Town Planning Board Guidelines for applications for open storage and port back-up uses in that no previous approval had been granted at the sites and there were adverse departmental comments and local objections against the applications; and the applicants failed to demonstrate that the developments would not generate adverse environmental, landscape and/or drainage impacts on the surrounding areas.
- 7.4 Details of these applications are summarized in **Appendix IV** and the locations are shown on **Plan A-1a**.

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

- 8.1 The Site is:
- (a) paved, fenced and currently used for open storage of construction machinery use covered by planning permission with validity up to 22.4.2022 under Application No. A/YL-PH/801; and
  - (b) accessible via a local track from Fan Kam Road.
- 8.2 The surrounding areas have the following characteristics:
- (a) to the west, south and east are areas zoned “Conservation Area”;
  - (b) to its north and northeast are a temporary vehicle park (under Application No. A/YL-PH/852), vacant land, residential structures/dwellings and a site with works in progress;
  - (c) to its immediate east are residential structures/dwellings, and to its further east is woodland;

- (d) to its south are an open storage yard, fallow agricultural land and vacant land; and
- (e) to its immediate west is a stream course and to its further west are orchard and woodland.

## **9. Planning Intention**

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 Apart from the government department as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices V and VI** respectively.

10.2 The following government department has objection to / reservation on the application.

### **Environment**

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

- (a) in accordance with the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Notes” (“COP”), she does not support the application as there are sensitive receivers, i.e. residential dwellings/structures, located in the vicinity (closest about 10m in the east) of the Site (**Plan A-2**), and environmental nuisances are expected;
- (b) there was no substantiated environmental complaint received in the past 3 years; and
- (c) DEP’s other advisory comments are provided in the Recommended Advisory Clauses in **Appendix VI**.

## **11. Public Comments Received During Statutory Publication Period (Appendix VII)**

The application was published for public inspection. During the statutory public inspection period, 2 public comments were received. Two individuals raise objection to the application mainly on the grounds that the applied use may cause adverse traffic and

environmental impacts and heighten fire risk thus affecting the quality of life of nearby residents; and the development may affect the planned developments in Pat Heung area.

## **12. Planning Considerations and Assessments**

- 12.1 The application is for renewal of planning permission for temporary open storage of excavators and loaders for a period of 3 years within 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. The applied use is not in line with the planning intention of the “R(D)” zone. Nevertheless, there is currently no known programme for long-term development at the Site. It is considered that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(D)” zone.
- 12.2 The applied use is considered not incompatible with the surrounding areas, which is mainly rural in character predominated by scattered residential structures/dwellings, an open storage yard, a vehicle park, an orchard, vacant land and woodland.
- 12.3 The Site falls within Category 3 areas under the TPB PG-No. 13F. The following considerations in the Guidelines are relevant:
- Category 3 areas: applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments/proposals (if required) to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding 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.
- 12.4 The application is considered generally in line with the TPB PG-No. 13F and 34D in that previous approvals for the same use were granted since 2002 and all approval conditions under the last approved application (No. A/YL-PH/801) have been complied with. The current application submitted by the same applicant is the same as the last approved application in terms of applied use, site boundary and area, number of structure and total floor area. All the departments consulted, except DEP, have no adverse comment on the application. As previous approvals have been granted and there is no major change in planning circumstance since the last approval, sympathetic consideration could be given to the current renewal application for a further period of 3 years.
- 12.5 While DEP does not support the application as there are sensitive receivers, i.e. residential dwellings/structures located at about 10m to the east and in the vicinity

of the Site (**Plan A-2**) and environmental nuisance is expected, no environmental complaint concerning the Site has been received in the past three years. Other relevant departments consulted, including C for T, CE/MN of DSD, CTP/UD&L of PlanD and D of FS, have no adverse comment on the application. To minimize the possible environmental nuisances generated by the development and address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 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 Uses” issued by DEP.

- 12.6 The Site is the subject of 7 approved previous applications for the same temporary open storage use between 2002 and 2019. Besides, there are 16 similar applications for temporary open storage uses within the same “R(D)” zone in the vicinity of the Site approved by the Committee in the past five years. Approval of the current renewal application is in line with the Committee’s previous decisions.
- 12.7 Two public comments were received during the statutory publication period, objecting to the application as stated in paragraph 11 above. In this regard, the departmental comments and planning considerations and assessments as stated above are relevant.

### **13. Planning Department’s Views**

- 13.1 Based on the assessment 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 excavators and loaders 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 6.5.2022 until 6.5.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

#### Approval conditions

- (a) no operation between 6:00 p.m. and 9:00 a.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 dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on the Site at any time during the planning approval period;
- (d) the existing boundary fencing shall be maintained at all times during the planning approval period;
- (e) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;

- (f) the submission of records of the existing drainage facilities on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 6.8.2022;
- (g) the provision of fire extinguisher(s) within **6** weeks with a valid fire certificate (FS 251) from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 17.6.2022;
- (h) the implementation of the accepted fire services 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 6.11.2022;
- (i) if any of the above planning condition (a), (b), (c), (d) or (e) 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
- (j) if any of the above planning condition (f), (g) or (h) 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 approval conditions are the same as those under the planning permission for the last approved Application No. A/YL-PH/801, except the conditions on maintenance of existing trees on-site, and prohibition of queuing back to or reversing of vehicle onto/from public road based on CTP/UD&L of PlanD's and C for T's comments.]*

#### Advisory clauses

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

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

the development is not in line with the planning intention of the "R(D)" zone which 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. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

## **14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.



- 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**

<b>Appendix I</b>	Application form with supplementary information received on 18.2.2022
<b>Appendix II</b>	Relevant extract of TPB PG-No. 13F
<b>Appendix III</b>	Relevant extract of TPB PG-No. 34D
<b>Appendix IV</b>	Previous and similar applications
<b>Appendix V</b>	Government department's general comments
<b>Appendix VI</b>	Recommended advisory clauses
<b>Appendix VII</b>	Public comments
<b>Appendix VIII</b>	FSD's good practice guidelines for open storage sites
<b>Drawing A-1</b>	Site layout plan
<b>Plan A-1a</b>	Location plan with similar applications
<b>Plan A-1b</b>	Previous applications plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos

**PLANNING DEPARTMENT  
MAY 2022**