

RNTPC Paper No. A/YL-PH/916
For Consideration by
the Rural and New Town
Planning Committee
on 20.5.2022

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

APPLICATION NO. A/YL-PH/916

<u>Applicant</u>	: Chief Force Limited
<u>Site</u>	: Lot 1845 (Part) in D.D.111 and various lots in D.D. 114 and Adjoining Government Land, Pat Heung, Yuen Long, New Territories
<u>Site Area</u>	: About 10,800 m ² (including about 280 m ² of government land)
<u>Land Status</u>	: (i) Block Government Lease (demised for agricultural use) (about 97% of the Site) (ii) Government Land (about 3% of the Site)
<u>Plan</u>	: Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<u>Zonings</u>	: “Agriculture” (“AGR”) (about 97% of the Site); and “Open Storage” (“OS”) (about 3% of the Site)
<u>Application</u>	: Renewal of Planning Approval for Temporary Open Storage of Second-Hand Vehicles for Export, Vehicle Parts and 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 second-hand vehicles for export, vehicle parts and construction materials for a period of 3 years. The Site falls within an area largely zoned “AGR” with a minor portion zoned “OS” on the Pat Heung OZP. According to the Notes of the OZP, ‘Open Storage’ in the “OS” zone is a Column 1 use which is always permitted whilst the same use in the “AGR” zone is neither a Column 1 nor Column 2 use and temporary use not exceeding a period of 3 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 fenced off and paved, divided into two parts by the Dongjiang Water Main, and used for the applied use with valid planning permission under Application No. A/YL-PH/805 (**Plans A-2 to A-4**). All the approval conditions under the previous application have been complied with and the planning permission is valid until 10.6.2022.

- 1.2 According to the applicant, the development involves four one to two-storey structures (ranging from 2.5m to 5m high) with a total floor area of about 322m² for site office and staff resting room uses. The open-air area is used for open storage of vehicles, vehicle parts and construction materials. While 24 tonnes vehicles will be used to transport materials to the entrance of the Site, no vehicle exceeding 5.5 tonnes will enter/exit the Site. The development does not involve dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities. The operation hours are between 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays. There is no operation on Sundays and public holidays. The site layout plan submitted by the applicant is shown on **Drawing A-1**.
- 1.3 The Site is involved in six previous applications (No. A/YL-PH/235, 409, 608, 688, 733 and 805) for various temporary open storage uses (details at paragraph 6 below).
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary information (**Appendix I**) received on 1.4.2022
 - (b) Further information (FI) received on 17.5.2022 (**Appendix Ia**)

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 FI at **Appendices I and Ia**. They can be summarized as follows:

- (a) The application intends to continue the development approved under the previous application (No. A/YL-PH/805) at the Site for a further period of 3 years. There was no adverse comment from the Government departments and no complaint from the nearby residents in the last application and the Site has been kept in good condition. It is hoped that the Rural and New Town Planning Committee (the Committee) would give favourable consideration to the application.

- (b) The applicant will comply with all the approval conditions and other statutory requirements should the application be approved. The existing landscape plantings, drainage facilities and fire service installations on-site will be properly maintained.

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. 31) by posting site notice and publishing notice in local newspapers. Detailed information would be deposited at the meeting for Members’ inspection. Regarding the portion of the Site falling within government land, the “Owner’s Consent / Notification” Requirements are not applicable.

4. Town Planning Board Guidelines

- 4.1 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. The relevant assessment criteria are attached at **Appendix II**.
- 4.2 The Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 13F) promulgated on 27.3.2020 are relevant to the application. The Site falls within Category 1 and 2 areas under the Guidelines. Relevant extract of the Guidelines is at **Appendix III**.

5. Background

The Site is not subject to any planning enforcement action.

6. Previous Applications

- 6.1 The Site, in part or in whole, is the subject of six previous applications (No. A/YL-PH/235, 409, 608, 666, 733 and 805) for various temporary open storage uses. All the applications, except Application No. A/YL-PH/235 and 409, were approved with conditions by the Committee between January 2011 and May 2019 mainly on the grounds that approval of the applications on a temporary basis would not frustrate the long-term planning intention; the developments were not incompatible with the surrounding land uses; the applications were in

line with the relevant Town Planning Board Guidelines on applications for open storage and port back-up uses, and for renewal of planning approval for temporary use or development; the technical concerns of relevant departments could be addressed by appropriate approval conditions; and relevant departments in general had no objection.

- 6.2 Compared with the last Application No. A/YL-PH/805, the current application is the same as the last application in terms of site area / boundary, applied use, site layout and major development parameters. The planning permission is valid until 10.6.2022 and all the approval conditions are complied with.
- 6.3 Details of the previous applications are summarized in **Appendix IV** and the locations are shown on **Plan A-1b**.

7. Similar Applications

- 7.1 There are 9 similar applications (No. A/YL-PH/752, 756, 770, 782, 803, 834, 865, 873 and 885) for various temporary open storage uses within the “AGR” zone in the vicinity of the Site in the past 5 years. All the applications, except No. A/YL-PH/752 and 770, were approved with conditions by the Committee between September 2017 and July 2021 on similar considerations as stated in paragraph 6.1 above.
- 7.2 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) currently fenced off and paved, divided into two parts by the Dongjiang Water Main, and used for the applied use with valid planning permission; and
 - (b) accessible from Kam Tin Road via a local access.
- 8.2 The surrounding areas have the following characteristics:
 - (a) to its north within both the “OS” and “AGR” zones are open storage / storage yards, warehouses, workshops, residential dwellings/ structures (the nearest about 15m to the north), a canteen and a plant nursery. One of the open storage yards is covered by valid planning permission;

- (b) to its east and southeast are open storage / storage yards, residential dwellings/structures, a plant nursery, vacant land and cultivated agricultural land;
- (c) to its south are plant nurseries and residential dwellings/structures; and
- (d) to its west and southwest is the Shek Kong Stabling Sidings of the XRL.

9. Planning Intentions

- 9.1 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.
- 9.2 The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

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

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 Sites” (COP), he does not support the application as the development will involve traffic of heavy vehicles and there are sensitive receivers, i.e. residential dwellings/structures located in the vicinity of the Site (the nearest about 25m to the north) (**Plan A-2**), and environmental nuisance is expected;

- (b) there was no substantiated environmental complaint received in the past 3 years;
- (c) DEP's other advisory comments are provided in the Recommended Advisory Clauses in **Appendix VI**.

11. Public Comments Received During Statutory Publication Period

The application was published for public inspection. During the statutory public inspection period, no public comments were received.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning permission for temporary open storage of second-hand vehicles for export, vehicle parts and construction materials for a period of three years mainly within the "AGR" zone (about 97%) with a minor portion (about 3%) of the area within the "OS" zone. The development is not in line with the planning intention of the "AGR" zone which is to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. Nevertheless, DAFC has no adverse comment on the application from agriculture point of view. It is considered that the approval of the application on a temporary basis would not frustrate the long-term planning intention of the "AGR" zone.

- 12.2 The Site falls within Category 1 (about 3%) and Category 2 (about 97%) areas under the TPB PG-No. 13F. The following considerations in the Guidelines are relevant:

Category 1 areas: considered suitable for open storage and port-backup uses. Favourable consideration will normally be given to applications within these areas, subject to no major 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 should be submitted if the proposed uses may cause significant environmental and traffic concerns.

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.

- 12.3 The temporary development under application is considered not incompatible with the surrounding area, which is mainly rural in character mixed with storage/open storage yards, warehouses, workshops, residential dwellings/structures, plant nurseries and vacant land and cultivated agricultural land. The area to the immediate north of the Site is zoned “OS” and are Category 1 areas under TPG PG-No. 13F where there are various existing open storage uses. Besides, the area to the west and southwest of the Site is the Shek Kong Stabling Sidings of the XRL (**Plan A-2**). CTP/UD&L of PlanD considers that significant adverse landscape impact arising from the development is not anticipated, and has no objection to the application from the landscape planning perspective. While DEP does not support the application as the development involves heavy vehicles traffic and there are sensitive receivers, i.e. domestic dwellings / structures, in the vicinity of the Site (the nearest about 15m to the north) (**Plan A-2**) and environmental nuisance is expected, no environmental complaint concerning the Site has been received in the past three years and no local objection was received during the statutory publication period. In order to minimize any potential environmental nuisances and address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below. In addition, the applicant will be advised to adopt the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Uses” issued by DEP.
- 12.4 The application is generally in line with the TPB PG-No. 13F and 34D in that previous approvals for the same use were granted since 2013 and all approval conditions under the last approved application (No. A/YL-PH/805) 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 / layout and major development parameters. Relevant departments consulted, except DEP, have no adverse comment on the application and there are no local objection received against the renewal application. As previous approvals have been granted and there is no major change in planning circumstances since the last approval, sympathetic consideration could be given to the current renewal application for a further period of 3 years.
- 12.5 The Site is the subject of 4 approved previous applications for the same or similar temporary open storage use between 2011 and 2019. Besides, there are 7 similar applications for temporary open storage uses within the same “AGR” zone in the vicinity of the Site approved by the Committee in the past 5 years. Approval of the current renewal application is in line with the Committee’s previous decisions.
- 12.6 No public comment was received during the statutory publication period.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department considers that the applied use 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 10.6.2022 until 10.6.2025. 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 shall be carried out on the Site at any time during the planning approval period;
- (d) 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;
- (e) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period; and
- (g) if any of the above planning condition (a), (b), (c), (d), (e) or (f) 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.

[The above approval conditions are the same as those under the planning permission of previous Application No. A/YL-PH/805, except the deletion of conditions related to the maintenance of existing trees, queueing back of vehicles, reinstatement of the Site to an amenity area, submission of records of existing drainage facilities, and implementation of FSIs proposal and provision

of fire extinguisher at the Site based on relevant departments' comments, including CTP/UD&L of PlanD, C for T, CE/MN of DSD and D of FS.]

Advisory clauses

The recommended advisory clauses are 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 renewal of the planning application.

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 reasons for rejection should be given to the applicant.

15. Attachments

Appendix I	Application form with supplementary information received on 1.4.2022
Appendix Ia	FI received on 17.5.2022
Appendix II	Relevant extract of TPB PG-No. 34D
Appendix III	Relevant extract of TPB PG-No. 13F
Appendix IV	Previous and similar applications
Appendix V	Government departments' general comments
Appendix VI	Recommended advisory clauses
Drawing A-1	Site 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-4	Site photos

**PLANNING DEPARTMENT
MAY 2022**