

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

APPLICATION NO. A/YL-PH/941

<u>Applicant</u>	:	Chief Force Limited
<u>Site</u>	:	Lots 1832 RP (Part), 1840 (Part), 1861 (Part), 1864 RP (Part), 1865 (Part), 1866 (Part), 1867 (Part) and 1868 (Part) in D.D. 111, Pat Heung, Yuen Long, New Territories
<u>Site Area</u>	:	About 3,660m 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>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Renewal of Planning Approval for Temporary Open Storage of Construction Materials, Second-hand Vehicles and Automotive Parts with Ancillary Staff Canteen 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, second-hand vehicles and automotive parts with ancillary staff canteen for a period of 3 years. The Site is zoned “AGR” on the Pat Heung OZP (**Plan A-1a**). According to the covering Notes of the OZP, temporary use of any land not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board). The Site is fenced, paved, divided into two parts with a narrow strip of government land in-between, and is currently used for the applied use with valid planning permission under Application No. A/YL-PH/834.
- 1.2 According to the applicant, a single-storey temporary structure with building height of about 2.5m and floor area of about 70m² is provided at the Site for ancillary staff canteen use. No workshop-related activities would be carried out at the Site. The operation hours are between 9:00a.m. to 6:00p.m. from Mondays to Saturdays, excluding Sundays and public holidays. No vehicle parking space and loading/unloading area are provided at the Site, and no vehicles exceeding 5.5 tonnes would enter / exit the Site. The Site is accessible via a local access leading from Kam Tin Road. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site, in whole or in part, is involved in ten previous applications for various temporary uses (details at paragraph 6 below). The last application No. A/YL-PH/834 submitted by the same applicant for the same use was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 24.4.2020. When compared with the last application, the current application is generally the same in terms of the applied use, site area / boundary, layout and major development parameters.
- 1.4 In support of the application, the applicant has submitted the following document:
- (a) Application form with supplementary information received (**Appendix I**) on 7.2.2023 and 10.2.2023

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 summarised as follows:

- (a) The temporary nature of the application will not frustrate the long-term planning intention of the “AGR” zone.
- (b) There is no change in the applied use and layout of the development between the current application and the last approved application No. A/YL-PH/834. Relevant government departments and nearby residents had no adverse comments or complaint on the development, and all the approval conditions for the last application have been complied with.
- (c) The development will not induce adverse traffic, drainage impact nor fire safety concern to the surrounding area. The applicant will continue to maintain the drainage and fire service installations facilities at the Site properly, and undertakes to comply with all the approval conditions to be stipulated by the Committee.

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

The applicant is not the 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 the 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 for ‘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 is within Category 2 areas under TPB PG-No.13F. The 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. The relevant assessment criteria are attached at **Appendix III**.

5. Background

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

6. Previous Applications

- 6.1 The Site, in whole or in part, is involved in ten previous applications for various temporary uses. Amongst them, seven applications (No. A/YL-PH/235, 635, 667, 683, 698, 740 and 834) are for various temporary open storage uses, while the remaining three (No. A/YL-PH/99, 255 and 330) are for temporary composting use which are not relevant to the current application.
- 6.2 Five previous applications (No. A/YL-PH/635, 667, 683, 740 and 834) with similar site area/boundary of the current application are for the same temporary open storage use as the current application (including renewal of the planning approval granted by the Board). They were approved with conditions by the Committee between January 2012 and April 2020. These applications were approved mainly on the considerations that temporary approval of the applications would not frustrate the long-term planning intention; the developments were not incompatible with the surrounding land uses, in particular the sites were located next to the Shek Kong Stabling Sidings of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL), and landscape impact would not be significant; relevant departments consulted in general had no adverse comment on the applications and/or their technical concerns could be addressed by relevant approval conditions; the developments were complied with the relevant Town Planning Board Guidelines for application for open storage and port back-up uses / Town Planning Board Guidelines for renewal of planning approval for temporary use or development. However, the planning permissions for Applications No. A/YL-PH/635 and 667 were revoked in April 2013 and October 2013 due to non-compliance with approval conditions.
- 6.3 Compared with the last approved Application No. A/YL-PH/834, the current application submitted by the same applicant is the same in terms of the applied use, site area / boundary, layout and major development parameters. All the approval conditions have been complied with and the planning permission is valid until 12.5.2023.
- 6.4 Two previous applications (No. A/YL-PH/235 and 698) for temporary open space covering a much larger site and with encroachment on the adjoining “Village Type Development” (“V”) zone were rejected by the Committee and by the Board on review in October 1998 and January 2015 respectively. Both applications were rejected mainly on the grounds that the developments were not in line with the planning intentions; the developments did not comply with the relevant Town Planning Board Guidelines for Application for Open Storage and Port Back-up

Uses; the developments would generate adverse noise nuisance and traffic impacts on the surrounding areas; and there was insufficient information to demonstrate that the developments would not have adverse drainage impact.

- 6.5 Details of the previous applications are summarised in **Appendix IV** and the locations are shown on **Plan A-1b**.

7. Similar Applications

- 7.1 There are nine similar applications (including renewal of the temporary planning approval granted by the Board) (No. A/YL-PH/770, 782, 803, 805, 865, 873, 885, 914 and 916), involving five sites, for various temporary open storage / warehouse uses within the same “AGR” zone in vicinity of the Site in the past five years. Except Application No. A/YL-PH/770, all applications were approved with conditions by the Committee between June 2018 and May 2022 on similar considerations as stated in paragraph 6.2 above. Nevertheless, the planning permission for Application No. A/YL-PH/893 was revoked subsequently due to non-compliance with the approval conditions. Application No. A/YL-PH/770, with its site surrounded by an area which were rural and natural in character with dense vegetation / mature trees, was rejected by the Committee in March 2018 mainly for reasons that the development was not compatible with the surrounding land uses and the applicant failed to demonstrate that the development would not generate adverse environmental impact.

- 7.2 Details of the applications are summarised 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) fenced, paved, divided into two parts with a narrow strip of government land in-between;
- (b) currently used for the applied use with valid planning permission under Application No. A/YL-PH/834; and
- (c) accessible via a local access leading from Kam Tin Road in the north.

- 8.2 The surrounding areas have the following characteristics:

- (a) to its north and northwest are open storage/storage yards (including two sites with valid planning permission under Applications No. A/YL-PH/885 and 914) and a vacant site (approved for temporary vehicle park under Application No. A/YL-PH/857);
- (b) to its further north and northeast is an area zoned “V” where residential structures/dwellings, an open storage yard, an office and parking of vehicles are found;

- (c) to its east across a site for plant nursery is an area zoned “Open Storage” where permitted open storage, warehouse and plant nursery uses are found; and
- (d) to its south and southwest are open storage yards/storage yards (including a site with valid planning permission under Application No. A/YL-PH/916), a warehouse and residential structures/dwellings. To its further west is the Shek Kong Stabling Sidings of the XRL (**Plan A-3**).

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

All government 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.

11. Public Comment Received During Statutory Publication Period

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

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning permission for temporary open storage of construction materials, second-hand vehicles and automotive parts with ancillary staff canteen at the Site zoned “AGR” (**Plan A-1a**). The planning intention of the “AGR” zone is primarily to retain and safeguard good quality 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. While the applied use is not in line with the planning intention of the “AGR” zone, the Director of Agriculture, Fisheries and Conservation has no strong view on the application considering that the previous application for the same use on the Site was approved. It is considered that temporary approval of the application for a further period of three years 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 predominantly rural in character intermixed with open storage / storage yards, parking of vehicles, warehouses, residential dwellings / structures and the Shek Kong Stabling Sidings of the XRL. Similar applications for temporary open

storage uses are approved by the Committee at the sites in the vicinity (**Plan A-2**). Besides, the area to the further east is zoned “OS” and is ‘Category 1 areas’ under the TPB PG-No. 13F where there are various existing open storage uses (**Plans A-1a, A-2 and A-3**). The Chief Town Planner/Urban Design and Landscape of Planning Department considers that further adverse landscape impact arising from the development is not anticipated, and has no objection to the application from the landscape planning perspective.

- 12.3 The Site falls within Category 2 areas under the TPB PG-No. 13F. The following considerations in the 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. 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/834) have been complied with. The current application submitted by the same applicant is the same in terms of the use, site area / boundary, layout and major development parameters. As there is no major change in the planning circumstances since the last approval, sympathetic consideration could be given to the current application.
- 12.5 Relevant departments consulted, including the Commissioner for Transport, Director of Environmental Protection (DEP), Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services, have no adverse comment on the application and there is no local objection received against the renewal application as conveyed by the District Officer (Yuen Long) of Home Affairs Department. To minimise any potential environmental nuisances 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 Sites’ issued by DEP.
- 12.6 There are nine similar applications, involving five sites, for various temporary open storage / warehouse uses within the same “AGR” zone as detailed in paragraph 7 above. Eight of them were approved by the Committee on similar considerations as stated in paragraph 6.2 above whilst the circumstances of the only rejected application are different from that of the current application as stated in paragraph 7.1 above. Approval of the current application is in line with the Committee’s previous decisions.

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 further 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 13.5.2023 until 12.5.2026. 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 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 shall be carried out on 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 submission of the records 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 Board by 13.8.2023;
- (g) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (h) if any of the above planning condition (a), (b), (c), (d), (e) 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;
- (i) if the above planning condition (f) 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
- (j) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

[The above approval conditions are the same as those under the planning permission of previous Application No. A/YL-PH/834, except change / deletion of the one on transport aspect based on the latest comments of C for T.]

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 approval.
- 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

Appendix I	Application form with supplementary information received on 7.2.2023 and 10.2.2023
Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Relevant extract of TPB PG-No. 34D
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 applications plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a & A-4b	Site photos

**PLANNING DEPARTMENT
MARCH 2023**