

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

APPLICATION NO. A/YL-PH/948

<u>Applicant</u>	:	Chief Force Limited
<u>Site</u>	:	Lot 2743 (Part) in D.D. 111, Wang Toi Shan Ho Lik Pui, Pat Heung, Yuen Long
<u>Site Area</u>	:	About 321m 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>	:	Renewal of Planning Approval for Temporary Shop and Services (Provision Store) 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 shop and services (provision store) for a period of 3 years. The Site is zoned “V” on the Pat Heung OZP (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with valid planning permission under Application No. A/YL-PH/839 (**Plans A-2 to A-4b**).
- 1.2 According to the applicant, the provision store is for the sale of groceries and household appliances for the nearby residents. The applied use involves two single-storey temporary structures for provision store and storage uses under an open shelter with building height of not more than 6m and a total floor area of about 60m². One loading/unloading space for light goods vehicle not exceeding 5.5 tonnes is provided within the Site. The operation hours are from 9:00 a.m. to 10:00 p.m. daily. 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 is involved in two previous approved applications (No. A/YL-PH/744 and 839) for the same applied use (details at paragraph 6 below). When compared with the last approved application (No. A/YL-PH/839), 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 for application No. A/YL-PH/839 have been complied with and the planning permission is valid until 23.6.2023.

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application form with supplementary information received (**Appendix I**) on 29.3.2023 and 31.3.2023
- (b) Further Information (FI) received on 10.5.2023, 12.5.2023 (**Appendix Ia**) and 15.5.2023*

** exempted from publication and recounting requirements*

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 summarised as follows:

- (a) There is no change in the applied use and layout of the development between this application and the last approved application No. A/YL-PH/839. Relevant government departments and nearby residents had no adverse comments or complaint on the previous application and all the approval conditions for the last application had been complied with.
- (b) The applicant has applied for a Short Term Waiver (STW) for erection for structures at the Site and undertakes to regularise the temporary structures at the Site.
- (c) The provision store, which is for the sale of groceries and household appliances, is mainly to serve the nearby residents. Besides, it is compatible with the surroundings and will not adversely affect the villagers and nearby rural environment.
- (d) The applied use will not induce adverse traffic impact to the surrounding area. The applicant will provide / maintain the drainage and fire service installations facilities at the Site, and undertakes to comply with the relevant approval conditions.

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

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**.

5. Background

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

6. Previous Applications

- 6.1 The Site is involved in two previous applications (No. A/YL-PH/744 and 839) for the same proposed use and renewal of the planning approval. Both of which were approved with conditions by the Rural and New Town Planning Committee (the Committee) for a period of 3 years on 23.6.2017 and 12.6.2020 respectively on the considerations that temporary approval would not frustrate the long-term planning intention of the “V” zone; the applied use was considered not incompatible with the surrounding land uses; there was no adverse departmental comment on the applications and / or their technical concerns could be addressed by appropriate approval conditions; and the renewal application was generally in line with the then Town Planning Board Guidelines for renewal of planning approval for temporary use or development.
- 6.2 Compared with the last Application No. A/YL-PH/839, 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. The planning permission is valid until 23.6.2023 and all the approval conditions have been complied with.
- 6.3 Details of the previous applications are summarised in **Appendix III** and the location is shown on **Plan A-1**.

7. Similar Applications

- 7.1 There are six similar applications, involving four sites, for various temporary shop and services uses within the same “V” zone in the vicinity of the Site in the past 5 years. All applications were approved with conditions by the Committee between September 2018 and September 2022 on similar considerations as stated in paragraph 6.1 above. However, the planning permission for Application No. A/YL-PH/816 was revoked in March 2022.
- 7.2 Details of the similar applications are summarised in **Appendix III** and the locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) currently used for the applied use with valid planning permission under Application No. A/YL-PH/839; and
- (b) accessible from Kam Tin Road via a local access.

8.2 The surrounding areas have the following characteristics:

- (a) to its north and east are village houses of Wang Toi Shan Wing Ning Lei (橫台山永寧里), vehicle parks, open storage yards and warehouse;
- (b) to its west and south are village houses of Wang Toi Shan Ho Lik Pui (橫台山河瀝背), open storages, warehouses and a shop; and
- (c) to its further east is the “Residential (Group D)” zone where open storages (including one with valid planning permission under Application No. A/YL-PH/910), a site with works in progress and grassland are found.

9. Planning Intention

The planning intention of the “V” zone is to reflect existing recognised 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 Houses. Other commercial, community and recreational uses may be permitted on application to 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 IV and V** respectively.

10.2 The following government department has adverse comment on the application:

Land Administration

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

- (a) the Site comprises an Old Schedule Agricultural Lot 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) LandsD has grave concerns given that there are unauthorised building works (UBWs) and / or uses on Lot 2743 in D.D. 111 which are already subject to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demanded by LandsD; and
- (c) there is no small house application approved or under processing within the Site.

11. Public Comment Received During Statutory Publication Period (Appendix VI)

The application was published for public inspection. During the statutory public inspection period, a public comment from an individual was received. The commenter objects to the application on the grounds that the applied use would induce adverse traffic, environmental and drainage / sewerage impacts to the surrounding areas; and the applied use might cause non-compliance uses at the Site.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning permission for temporary shop and services (provision store) for a period of 3 years at the Site zoned “V”. The planning intention of the “V” zone is to reflect existing recognised 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. Whilst the applied use is not in line with the planning intention of the “V” zone, it can help meet the daily needs of the nearby residents in the “V” zone. Besides, DLO/YL of LandsD advises that there is no Small House application approved or under processing within the Site. In this regard, it is considered that temporary approval of the application for a period of 3 years would not frustrate the long-term planning intention of the “V” zone.
- 12.2 The applied use is considered not incompatible with the surrounding land uses which are predominantly rural in character with village houses, parking of vehicles, open storages / storage yards, warehouses, workshops, grassland, and site with works in progress (**Plan A-2**). The Chief Town Planner/Urban Design and Landscape of Planning Department (CTP/UD&L of PlanD) considers that no significant landscape impact arising from the applied use is anticipated and has no objection to the application from the landscape planning perspective.
- 12.3 The application is generally in line with the TPB PG-No. 34D in that previous approvals for the same use have been granted since 2017 and all approval conditions under the last approved application (No. A/YL-PH/839) have been complied with. Compared with the last application, the current application is the same in terms of the use, site area / boundary, layout and major development parameters. As there has been no major change in the planning circumstances

since the last approval, sympathetic consideration could be given to the current application.

- 12.4 Relevant departments consulted, including the Commissioner for Transport (C for T), the Director of Environmental Protection (DEP), the Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD) and the Director of Fire Services (D of FS), have no adverse comment on the application. To minimise any potential environmental nuisances and address the technical requirements of CE/MN of DSD and D of FS on drainage and fire safety aspects, 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. Regarding the existing UBWs and / or uses on part of the Site as advised by DLO/YL of LandsD, the applicant states that he will take follow-up actions for regularisation of the temporary structures at the Site. According to the applicant, he has applied for STW with LandsD. Relevant advisory clause on need for application to LandsD for regularisation for UBWs is recommended. Besides, any use or development which is always permitted or may be permitted in accordance with the OZP must also conform to any other relevant legislation, the conditions of the Government Lease concerned, and any other government requirements, as may be applicable.
- 12.5 There are six similar applications for various temporary shop and services use within the same "V" zone approved by the Committee in the past 5 years as detailed in paragraph 7 above. Approval of the application is in line with the previous decisions of the Committee.
- 12.6 One public comment was 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 above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comment mentioned in paragraph 11 above, the Planning Department has no objection to the applied use 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 24.6.2023 to 23.6.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 10:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;

- (c) the submission of the records of the existing drainage facilities on the Site within 3 months from the date of commencement of the renewal planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 24.9.2023;
- (d) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (e) if any of the above planning condition (a), (b) or (d) 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
- (f) if the above planning condition (c) 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 largely the same as those under the planning permission of previous Application No. A/YL-PH/839, except deletion of the conditions related to the traffic and landscape aspects based on the comments of C for T and CTP/UD&L of PlanD.]

Advisory clauses

The recommended advisory clauses are at **Appendix V**.

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 29.3.2023 and 31.3.2023
Appendix Ia	FI received on 10.5.2023, 12.5.2023 and 15.5.2023
Appendix II	Relevant extract of TPB PG-No. 34D
Appendix III	Previous and similar applications

Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comment
Drawing A-1	Site layout plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a & A-4b	Site photos

**PLANNING DEPARTMENT
MAY 2023**