

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/957

<u>Applicant</u>	: Chief Force Limited
<u>Site</u>	: Lots 135 RP (Part), 136 (Part), 138 S.B. RP (Part) and 139 RP (Part) in D.D. 108, Pat Heung, Yuen Long
<u>Site Area</u>	: About 2,598m 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>	: “Residential (Group D)” (“R(D)”) [Maximum plot ratio of 0.2 and building height of 2 storeys (6m)]
<u>Application</u>	: Proposed Temporary Open Storage of Construction Materials and Machineries with Ancillary Facilities for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary open storage of construction materials and machineries with ancillary facilities for a period of 3 years and filling of land at the application site (the Site), which falls within an area zoned “R(D)” on the Pat Heung OZP. According to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board). Filling of land within “R(D)” zone also requires planning permission from the Board. The Site is currently paved, fenced and vacant (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development involves a 2-storey structure with a building height of not more than 6m and a total floor area of not more than 120m² for site office and staff resting room. The applicant also applies for regularisation of filling of land by 0.25m in depth to about 55.9mPD for the whole site. Two L/UL spaces for light goods vehicles (LGVs) will be provided at the Site. The proposed operation hours are between 9:00 a.m. and 6:00 p.m. from Mondays to Saturdays, and there will be no operation on Sundays and public holidays. The Site is accessible to Fan Kam Road via a local track. The site layout plan submitted by the applicant is shown on **Drawing A-1**.

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

- (a) Application form with supplementary information (SI) (Appendix I)
received on 5.6.2023, 9.6.2023 and 12.6.2023
- (b) Further Information (FI) received on 10.7.2023* (Appendix Ia)
- (c) FI received on 19.7.2023 and 21.7.2023* (Appendix Ib)

** accepted and 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, supporting planning statement, SIs and FIs at **Appendices I to Ib**, which can be summarised as follows:

- (a) The Site falls within Category 2 areas under Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses in which the Site is considered suitable for open storage use. The applied use is temporary in nature and will not jeopardise the long-term planning intention of the Site.
- (b) Only LGVs but not medium goods vehicles nor heavy goods vehicles will be allowed to the Site. Acoustic barriers will be erected on the site boundary to minimise possible environmental nuisance to the nearby area. No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities will be carried out at the Site. The machineries will only be stored at the Site and no operation of the machineries will be conducted.
- (c) The proposed development will not result in adverse traffic and drainage impacts nor increase the fire safety risk in the area.

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. 31A) by posting a notice at the Site and sending notice to 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 Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13G) promulgated on 14.4.2023 are relevant to the application. The Site falls within Category 2 areas under the Guidelines. Relevant extract of the Guidelines is at **Appendix II**.

5. **Background**

The Site is subject to planning enforcement action against unauthorised development (UD) involving storage uses. Enforcement Notice (EN) No. E/YL-PH/892 was issued on 15.3.2023 requiring discontinuation of the UD by 15.5.2023. Site inspection on 5.7.2023 revealed that the site is largely vacant. The Site will be subject to monitoring. If the notice is not complied with, prosecution action may be taken.

6. **Previous Applications**

- 6.1 The Site, in part or in whole, is involved in six previous applications (No. A/YL-PH/240, 297, 403, 491, 515 and 836).
- 6.2 Applications No. A/YL-PH/240, 403, 491 and 515 for various temporary open storage uses were rejected by the Rural and New Town Planning Committee (the Committee) or the Board on review between November 1998 and May 2020, mainly on the grounds that the development was not in line with the planning intention; there was insufficient information to demonstrate that the proposed development would not have adverse drainage/environment/traffic impact; it was not compatible with the nearby uses; and/or the application did not comply with the then Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses.
- 6.3 Application No. A/YL-PH/297 for temporary open storage of new private cars and vehicle parts was approved by the Committee with conditions in September 1999, mainly on the considerations that the development would unlikely induce adverse environmental and traffic impacts on the surrounding areas; relevant government departments had no adverse comment on the application; and appropriate use of the site in the interim could be considered as long as permanent development of the site would not be frustrated. The planning permission was revoked in June 2000 due to non-compliance with approval conditions.
- 6.4 Application No. A/YL-PH/836 for temporary vehicle park is not relevant to the current application which is for open storage use.
- 6.5 Details of the applications are summarised in **Appendix III** and their locations are shown on **Plan A-1b**.

7. **Similar Applications**

- 7.1 There are six similar applications (No. A/YL-PH/760, 801, 869, 909, 933 and 953), involving four sites, for various temporary open storage uses (including renewal of temporary planning approval) within the same “R(D)” zone in the vicinity of the Site in the past 5 years. Except application No. A/YL-PH/760, all of the other similar applications were approved with conditions by the Committee mainly on the considerations that temporary approval would not frustrate the long-term planning intention; the development was not incompatible with the surrounding land uses; there was no adverse departmental comment or the concerns of the departments could be addressed by relevant approval conditions; and the development was

generally in line with the then TPB PG-No. 13E/13F or TPB PG-No.13G in that the site was within Category 2 areas or Category 3 areas covered with previous planning approvals. The planning permission under application No. A/YL-PH/869 was revoked in April 2023 due to non-compliance with approval conditions.

- 7.2 Application No. A/YL-PH/760 for temporary open storage of construction materials with application site falling within Category 3 areas under the then TPB PG-No. 13E was rejected by the Board on review in March 2018 and subsequently dismissed by the Appeal Board in March 2019, mainly on the grounds that the development was not in line with the planning intention; the applicant failed to demonstrate that the development would not generate adverse environmental impact; the development was not compatible with the surrounding uses and the application did not comply with the then TPB PG-No. 13E in that the no previous planning approval had been granted.
- 7.3 Details of the applications are summarised at **Appendix III** and their locations are shown at **Plan A-1a**.

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

8.1 The Site is:

- (a) currently paved, fenced and vacant; and
- (b) accessible to Fan Kam road via a local track to the southwest.

8.2 The surrounding areas have the following characteristics:

- (a) to the north and northeast are residential structures/dwellings (the nearest within 5m from the Site) and storage yards;
- (b) to the southeast and south across a watercourse are open storage/ storage yards (including one with valid planning permission under application No. A/YL-PH/909), parking of vehicles (with valid planning permission under application No. A/YL-PH/922) and residential structures/dwellings;
- (c) to the southwest across the local track are woodland and vacant land (with valid planning permission for proposed temporary public vehicle park (private cars only) with ancillary site office under No. A/YL-PH/849); and
- (d) to the northwest are the Dongjiang water mains maintained and managed by Water Supplies Department, open storage/storage yards and Fam Kam Road.

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 IV and V** respectively.

10.2 The following government department does not support the application:

Environment

Comments of the Director of Environmental Protection (DEP):

- (a) the Environmental Protection Department (EPD) does not support the application as it is considered that the proposed use would cause traffic of heavy vehicles and there are residential dwellings in the vicinity of the Site (**Plan A-2**), environmental nuisance to the nearby residential uses could be generated by the proposed use;
- (b) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the revised 'Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites' to minimise any potential environmental nuisance from the proposed use; and
- (c) there was no substantiated environmental complaint received against the Site in the past three years.

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

The application was published for public inspection. During the statutory public inspection period, one public comment from an individual was received objecting to the application mainly on the grounds that the proposed use is not community-friendly and the intention is to fill the entire site.

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary open storage of construction materials and machineries with ancillary facilities for a period of 3 years and filling of land at the Site zoned "R(D)". 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. Whilst the proposed development

is not in line with the planning intention of the “R(D)” zone, there is currently no known proposal for long-term development at the Site. It is considered that approval of the application on a temporary basis of 3 years would not frustrate the long-term planning intention of the Site. Filling of land within the “R(D)” zone requires planning permission from the Board. In this regard, the Chief Engineer/Mainland North of the Drainage Services Department (CE/MN of DSD) and DEP have no objection to the filing of land from drainage and environmental perspectives.

- 12.2 The proposed development is considered not incompatible with the surrounding land uses, which are mainly rural in character predominated by residential structures/dwellings, open storage/storage yards, parking of vehicles and vacant land. While DEP does not support the application in considering that environmental nuisance could be generated by the proposed development, the applicant proposes to erect acoustic barriers to minimise possible nuisance and states that no workshop activities will be carried out at the Site. According to the submission, medium goods vehicles and heavy goods vehicles will not be allowed to the Site; the proposed operation hours will be between 9:00 a.m. and 6:00 p.m. from Mondays to Saturdays only; and the vehicles would be accessing from Fan Kam Road via a local track to the southwest without passing through areas near the residential structures/dwellings to the north and northeast. To address DEP’s concern, approval conditions restricting types of vehicle and operation hours are recommended in paragraph 13.2 below. The applicant will also be advised to follow the revised ‘Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites’ issued by EPD.

- 12.3 The Site falls within Category 2 areas under the TPB PG-No. 13G. 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 three 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 considered generally in line with TPB PG-No. 13G in that the concerned departments including the Commissioner for Transport, CE/MN of DSD, the Director of Fire Services and the Director of Agriculture, Fisheries and Conservation have no adverse comment on the application. The concern of DEP can be addressed as mentioned in paragraph 12.2 above. To address the technical requirements of concerned government departments, relevant approval conditions are also recommended in paragraph 13.2 below.
- 12.5 There are five relevant previous applications and six similar applications for various open storage uses. Although four previous applications and one similar application were rejected due to reasons including various adverse impacts; incompatibility with the surrounding and incompliance with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses as detailed in paragraphs 6 and 7 above, it is considered that the planning

circumstances of the current application are different from the rejected previous and similar applications given that the proposed development in the current application is not incompatible with the surrounding uses; there is no adverse departmental comment or the concern can be addressed by relevant approval conditions; and it is generally in line with TPB PG-No. 13G as mentioned in paragraphs 12.2 to 12.4 above. In this regard, approval of the current application is in line with the Committee's previous decisions on the one approved previous application and the five approved similar applications.

- 12.6 For the public comment objecting to the application received as detailed in paragraph 11, the departmental comments and planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taking into account the public comment mentioned in paragraph 11, the Planning Department considers that the proposed development 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 until 28.7.2026. 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 dismantling, maintenance, repairing, cleansing, paint spraying, operation of machineries or other workshop activities shall be carried out on the site at any time during the planning approval period;
- (d) no vehicle exceeding 5.5 tonnes, including medium goods vehicle, heavy goods vehicle and container tractor/trailer, as defined in the Road Traffic Ordinance, as proposed by the applicant is allowed to be parked/stored on or enter/exit the site at any time during the planning approval period;
- (e) the submission of a revised 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 28.1.2024;
- (f) in relation to (e) above, the implementation of the revised 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 28.4.2024;

- (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 provision of fire extinguisher(s) within **6** weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 8.9.2023;
- (i) the implementation of the accepted 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 28.1.2024;
- (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 recommended advisory clauses are attached at **Appendix V**.

- 13.3 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 "R(D)" zone which is intended 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 Town Planning Board. There is no strong planning justification 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**

Appendix I	Application form with supplementary information received on 5.6.2023, 9.6.2023 and 12.6.2023
Appendix Ia	FI received on 10.7.2023
Appendix Ib	FI received on 19.7.2023 and 21.7.2023
Appendix II	Relevant extract of TPB PG-No. 13G
Appendix III	Previous and similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Fire Services Department's good practice guidelines for open storage sites
Appendix VII	Public comment
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
Plan A-4	Site photos

**PLANNING DEPARTMENT
JULY 2023**