

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/972

<u>Applicant</u>	:	Chief Force Limited
<u>Site</u>	:	Lot 303 (Part) in D.D. 110, Pat Heung, Yuen Long
<u>Site Area</u>	:	About 726m 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>	:	Temporary Shop and Services (Sales of Motor-vehicle and Showroom) for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary shop and services (sales of motor-vehicle and showroom) for a period of 3 years and filling of land. The Site falls within an area zoned “AGR” on the Pat Heung OZP. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board). Filling of land within “AGR” zone also requires planning permission from the Board. The Site is currently paved, fenced, and used for motor-vehicle showroom without valid planning permission (**Plans A-2 and A-4**).
- 1.2 The applied use involves one 1-storey temporary structure with a building height of about 2.5m and a total floor area of 30m² for ancillary office. 2 visitor parking spaces for private cars/light goods vehicles not exceeding 5.5 tonnes and 19 spaces for displaying motor-vehicles will be provided within the Site. The applicant also applies for regularisation for filling of land by 0.3m in depth from a range of +15.50mPD to +15.80mPD to a range of +15.60mPD to +15.90mPD for the whole Site. The proposed operation hours are between 9:00 a.m. and 6:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays. The Site is accessible to Kam Tin Road via local tracks. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 Various parts of the Site are involved in six previous applications including four for temporary shop and services uses (detailed in paragraph 5 below). Previous application No. A/YL-PH/851 approved for temporary shop and services (motor-

vehicle showroom) covers the major portion of the Site and was submitted by the same applicant as the current application. The planning permission under application No. A/YL-PH/851 lapsed on 22.9.2023. The current application is submitted with changes mainly to layout, reduced site area, increased floor area, and land filling. A comparison of the major development parameters of the current application with application No. A/YL-PH/851 is summarised as follows:

Parameters	Previous Application No. A/YL-PH/851 (a)	Current Application No. A/YL-PH/972 (b)	Difference (b) – (a)
Site Area	About 800m ²	About 726m ²	-74 m ² (-9.25%)
Gross Floor Area	About 15m ²	About 30 m ²	+15 m ² (+100%)
No. of Structures	1	1	No Change
Building Height	About 2.5m (1 storey)	About 2.5m (1 storey)	No Change
Spaces for Displaying Motor-vehicle	19	19	No Change
Parking Spaces for Private Car/Light Goods Vehicle	2	2	No Change

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

- (a) Application form with supplementary information received (**Appendix I**) on 14.9.2023 and 15.9.2023
 - (b) Further Information (FI) received on 11.10.2023* (**Appendix Ia**)
 - (c) FI received on 18.10.2023* (**Appendix Ib**)
 - (d) FI received on 3.11.2023* (**Appendix Ic**)
- * 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, supplementary information and FIs at **Appendices I to Ic**. They can be summarised as follows:

- (a) The applied use is temporary in nature and would not frustrate the long-term planning intention of the Site. The shop and services (sales of motor-vehicle and showroom) use is intended to serve the needs of the people from surrounding areas and is used for the display and sales of motor vehicles. Customers with appointments will be able to view the displayed motor-vehicles at the Site and the sales could take place on Site or on the Internet.
- (b) No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities will be carried out within the Site. Vehicles over 5.5 tonnes

will not be allowed to enter the Site. The existing drainage facilities and trees on the Site will be maintained. The applied use would not result in adverse traffic and drainage impacts to the surrounding areas nor increase the fire safety risk in the area.

- (c) The application is submitted for changes in the site boundary/area, layout and major development parameters compared with the previous application No. A/YL-PH/851.
- (d) With regard to unauthorised building works (UBWs) under lease, the applicant has applied for a Short Term Waiver (STW) for erection of structure at the Site.

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. 31B) 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. Background

The current shop and services use (motor-vehicle showroom) on the Site would be subject to planning enforcement action.

5. Previous Applications

- 5.1 Various parts of the Site, in part or in whole, are involved in six previous applications. Applications No. A/YL-PH/622 and 751 for temporary vehicle repair workshop and temporary open storage are not relevant to the current application.
- 5.2 Applications No. A/YL-PH/754, 766, 851 and 874 for various temporary shop and services uses (including renewal of planning approval) were approved by the Rural and New Town Planning Committee (the Committee) between September 2017 and February 2021, mainly on the considerations that temporary approval would not frustrate the long-term planning intention of the “AGR” zone; the development was considered not incompatible with the surrounding land uses; and the relevant departments consulted generally had no adverse comment on the application or their technical concerns could be addressed by relevant approval conditions.
- 5.3 Details of the previous applications are summarised in **Appendix II** and the locations are shown on **Plan A-1b**.

6. Similar Application

There is no similar application within the same “AGR” zone in the past 5 years.

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

7.1 The Site is:

- (a) currently paved, fenced, and used for motor-vehicle showroom without valid planning permission; and
- (b) accessible to Kam Tin Road via local tracks.

7.2 The surrounding areas are rural in character intermixed with open storage/storage yards, sales of vehicle parts, residential dwellings/structures and farmland.

8. Planning Intention

8.1 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.

8.2 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

9. Comments from Relevant Government Departments

9.1 Apart from the government departments as set out in paragraph 9.2 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 III and IV** respectively.

9.2 The following government departments do not support/ have adverse comment on the application:

Agriculture and Nature Conservation

9.2.1 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) the agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the applied use is not supported from agricultural perspective; and
- (b) no comment on the application from nature conservation perspective.

Land Administration

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

- (a) LandsD has adverse comments on the application;
- (b) 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; and
- (c) LandsD has grave concerns given that there are UBWs and/or uses on the private lot which is already subject to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demanded by LandsD.

10. 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.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services (sales of motor-vehicle and showroom) for a period of 3 years and filling of land at the Site zoned “AGR” on the OZP. The applied use is not in line with the planning intention of the “AGR” zone, which is primarily 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. Whilst the applied use is not in line with the planning intention of “AGR” zone and DAFC does not support the application from agricultural perspective, taking into account the planning assessments below, the applied use on a temporary basis of 3 years could be tolerated.
- 11.2 Filling of land within the “AGR” zone requires planning permission from the Board as it may cause drainage and environmental impacts on the surrounding areas. In this regard, the Chief Engineer/Mainland North of the Drainage Services Department (CE/MN of DSD) and the Director of Environmental Protection (DEP) have no objection to the application from drainage and environmental perspectives. An approval condition requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.
- 11.3 The applied use is considered not incompatible with the surrounding land uses which are rural in character and intermixed with open storage/storage yards, residential dwellings/structures and farmlands. The Chief Town Planner/Urban Design and Landscape of Planning Department considers that significant adverse landscape impact is not anticipated and has no objection to the application from landscape planning perspective.

- 11.4 DLO/YL of LandsD has adverse comments on the application in view of the existing UBWs at the Site. In this regard, the applicant states that he has applied for STW with LandsD for erection of structure. Relevant advisory clause on need for application to LandsD for regularisation for UBWs is also recommended. Relevant departments consulted including the Commissioner for Transport, DEP, CE/MN of DSD and D of FS have no objection or no adverse comment on the application. To address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised to follow the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department to minimise the possible environmental nuisance generated by the proposed development.
- 11.5 The Site is the subject of four approved previous applications for various shop and services uses, including application No. A/YL-PH/851 with similar site area and submitted by the same applicant as the current application. The planning permission of application No. A/YL-PH/851 lapsed and the current application is submitted with changes mainly to the layout and floor area. Approving the current application is in line with the Committee’s previous decisions.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above, the Planning Department considers that the applied use could be tolerated for a period of 3 years.
- 12.2 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 10.11.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit the site at any time during the planning approval period;
- (b) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities, as proposed by the applicant, shall be carried out on the site at any time during the planning approval period;
- (c) the submission of a 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 10.5.2024;
- (d) in relation to (c) above, the implementation of the accepted 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 10.8.2024;
- (e) in relation to (d) above, the implemented drainage facilities on the Site

shall be maintained at all times during the planning approval period;

- (f) the implementation of the accepted fire service installations proposal within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 10.8.2024;
- (g) if any of the above planning condition (a), (b) 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;
- (h) if **any of** the above planning condition (c), (d) or (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
- (i) upon the 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.

Advisory clauses

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

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

the applied use is not in line with the planning intention of the "AGR" zone which are primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. The zone is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning approval.
- 13.2 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.
- 13.3 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.

14. Attachments

Appendix I

Application form with supplementary information received on 14.9.2023 and 15.9.2023

Appendix Ia	FI received on 11.10.2023
Appendix Ib	FI received on 18.10.2023
Appendix Ic	FI received on 3.11.2023
Appendix II	Previous applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Drawing A-1	Site layout plan
Plan A-1a	Location plan
Plan A-1b	Previous application plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
NOVEMBER 2023**