

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/991

<u>Applicant</u>	:	Chief Force Limited
<u>Site</u>	:	Lots 1869 (Part), 1870 (Part), 1872 (Part), 1873 (Part), 1875 RP (Part), 1876 and 1877 in D.D. 111, Pat Heung, Yuen Long, New Territories
<u>Site Area</u>	:	About 3,526m 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>	:	Proposed Temporary Shop and Services (Motor-vehicle Showroom) with Ancillary Facilities for a Period of Three Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (motor-vehicle showroom) with ancillary facilities for a period of three years and filling of land. The Site falls within an area zoned “AGR” on the Pat Heung OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three 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 temporary public vehicle park with valid planning permission until 23.7.2024 under application No. A/YL-PH/857 (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the temporary shop and services is for motor-vehicle showroom and sale uses involving a single-storey temporary structure with a building height of not more than 2.5m and a total floor area of about 30m² for ancillary office and an open area of about 170m² for ancillary storage of car equipment (**Drawing A-1**). Five parking spaces for private cars, three parking spaces for light goods vehicles, and 60 parking spaces for displaying motor-vehicles will be provided within the Site. The applicant also applies for regularisation of filling of land with asphalt with a depth of about 0.2m (from +18.7mPD to +18.9mPD) for the whole Site for site formation. 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 from Leung Shing Road via a local track. The site layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application form with supplementary information received (**Appendix I**) on 8.2.2024, 9.2.2024 and 14.2.2024
- (b) Further Information (FI) received on 25.3.2024* (**Appendix Ia**)
**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 FI at **Appendices I** and **Ia**. They can be summarised as follows:

- (a) The proposed use is temporary in nature and would not frustrate the long-term planning intention of the Site. The shop and services (motor-vehicle showroom) use is intended to serve the needs of the people from surrounding areas and is used for display of motor vehicles. Customers with appointments will be able to view the displayed motor-vehicles at the Site.
- (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 on the Site will be maintained. The proposed use would not result in adverse traffic and drainage impacts to the surrounding areas.
- (c) An application for a Short Term Waiver (STW) for erection of structure at Lot 1869 in D.D. 111 for ancillary office was made to the Government in August 2022. The decision is yet to be received. The applicant undertakes to apply for further STW application for other private lots where appropriate.

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 Site is currently not subject to any active planning enforcement case.

5. **Previous Applications**

The Site, in part or in whole, is the subject of three previous applications (No. A/YL-PH/235, 566 and 857). Applications No. A/YL-PH/235 and 566 were for temporary open storage which are not relevant to the current application. Application No. A/YL-PH/857 submitted by the same applicant as the current application was for temporary public vehicle park for a period of three years which was approved with conditions by the Committee in July 2021 mainly on the considerations that the temporary approval would not frustrate the long-term planning intention; the proposed use was not incompatible with the surrounding land uses; and the departments consulted in general had no adverse comment or their concerns could be addressed by relevant approval conditions. The planning permission under application No. A/YL-PH/857 is valid until 23.7.2024. Details of the previous application are summarised in **Appendix II** and the location is shown on **Plan A-1**.

6. **Similar Application**

- 6.1 There is one similar application within the same “AGR” zone in the vicinity of the Site in the past five years. Planning application No. A/YL-PH/955 for temporary public vehicle park (excluding container vehicle) and shop and services (convenience store) with filling of land was approved with conditions by the Committee in September 2023 mainly on the considerations that the proposed use on a temporary basis could be tolerated; the proposed use was not incompatible with the surrounding land uses; and the departments consulted in general had no adverse comment or their concerns could be addressed by relevant approval conditions.
- 6.2 Details of the application is summarised in **Appendix II** and the location is shown on **Plan A-1**.

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

- 7.1 The Site is:
 - (a) paved, fenced, and used for temporary public vehicle park with valid planning permission under application No. A/YL-PH/857; and
 - (b) accessible to Leung Shing Road via a local track.
- 7.2 The surrounding areas are rural in character intermixed with open storage yards (including site with valid planning permission under application No. A/YL-PH/885), warehouse (with a valid planning permission under application No. A/YL-PH/914), parking of vehicles, vacant land, grassland and residential dwellings/structures.

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) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
 - (b) the Site falls within the “AGR” zone and is generally vacant. Agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.; and
 - (c) no comment from nature conservation perspective.

Land Administration

- 9.2.2 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) LandsD has adverse comments on the application;
 - (b) the Site comprises ~~an~~ Old Schedule Agricultural Lots 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;

- (c) Lot 1870 in D.D. 111 is covered by STW No. 4047 for the purpose of temporary open storage of backdrop screens, advertising aluminum frames and construction materials; and
- (d) ~~*LandsD has grave concerns given that there are unauthorised building works (UBWs) and/or uses on Lot 1869 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. There are unauthorised structures and uses on Lot No. 1869 in D.D. 111. The lot owner(s) should immediately rectify/apply for regulation on the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice.*~~

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 proposed temporary shop and services (motor-vehicle showroom) with ancillary facilities for a period of three years and filling of land at the Site zoned “AGR”. The proposed 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. DAFC does not support the application from agricultural perspective. According to the applicant, the proposed use is intended to serve the needs of the locals. Taking into account the planning assessments below, the proposed use on a temporary basis of three 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 and the Director of Environmental Protection 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 proposed use is considered not incompatible with the surrounding land uses which are rural in character and mainly intermixed with open storage yards, warehouse, parking of vehicles, vacant land, grassland and residential dwellings/structures. The Chief Town Planner/Urban Design and Landscape of the 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 existing UBWs at the subject lot. In this regard, the applicant states that an application for

STW for erection of structure at one of the private lots of the Site for ancillary office was made in August 2022. Besides, further STW applications for other private lots involved can also be made where appropriate. Relevant advisory clause on need for application to LandsD for regularisation for UBWs is also recommended. Other relevant departments consulted including the Commissioner for Transport and Director of Fire Services 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 use.

- 11.5 There is one approved similar application within the same “AGR” zone in the vicinity of the Site as mentioned in paragraph 6.1 above. Approving the current application is in line with the Committee’s previous decision.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above, the Planning Department considers that the proposed use could be tolerated for a period of three 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 three years until 5.4.2027. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (b) 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 5.1.2025;
- (c) if the above planning condition (a) 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;
- (d) if the above planning condition (b) 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
- (e) 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.

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 proposed use with filling of land 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 8.2.2024, 9.2.2024 and 14.2.2024
Appendix Ia	FI received on 25.3.2024
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Drawing A-1	Site layout plan
Plan A-1	Location plan with previous and similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos