

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/994

<u>Applicant</u>	: Chief Force Limited
<u>Site</u>	: Lots 2625 (Part) and 2632 (Part) in D.D. 111, Pat Heung, Yuen Long, New Territories
<u>Site Area</u>	: About 2,811m 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”)
<u>Application</u>	: Proposed Temporary Shop and Services (Motor-vehicle Showroom) 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 shop and services (motor-vehicle showroom) with ancillary facilities for a period of three years and filling of land at the application site (the Site) which falls within an area zoned “V” on the OZP (**Plan A-1**). According to the Notes of the OZP for the “V” zone, ‘Shop and Services’ other than those on the ground floor of a New Territories Exempted House (NTEH) is a Column 2 use which requires planning permission from the Town Planning Board (the Board). Filling of land within the “V” zone also requires planning permission from the Board. The Site is currently vacant, partly formed and partly covered by weeds (**Plan A-4**).
- 1.2 According to the applicant, a total of 22 spaces for motor-vehicle display would be accommodated within the Site. The Site would also involve a one-storey structure with a building height of about 3m and total floor area of about 60m² for site office and staff resting area (**Drawing A-1**). The entire Site would be filled with concrete of about 0.05m in depth up to +32.5mPD for vehicular access and maneuvering space (**Drawing A-2**). 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. Four parking spaces for private cars and two parking spaces for light goods vehicles will be provided within the Site to support the proposed use. The Site is accessible from Kam Tin Road via a local track (**Plan A-2**). The layout plan

and land filling plan submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

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

- (a) Application form and planning statement received on 21.2.2024 (**Appendix I**)
- (b) Further Information (FI) received on 12.4.2024* (**Appendix Ia**)
- (c) FI received on 19.6.2024* (**Appendix Ib**)

** accepted and exempted from publication and recounting requirements*

1.4 On 19.4.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for two months as requested by the applicant.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form and FIs at **Appendices I to Ib**. They can be summarised as follows:

- (a) The proposed use on a temporary basis would not jeopardise the long-term planning intention of the “V” zone.
- (b) The proposed use would not cause any adverse impacts in terms of drainage, traffic, environmental and fire safety aspects, and would not create significant nuisance to the surrounding areas.
- (c) There would be no cleaning, maintenance, other workshop and test drive activities to be conducted on site; and no vehicle exceeding 5.5 tonnes would be parked within the Site. The proposed temporary structure would not be used for domestic purpose.
- (d) The applicant will apply for Short Term Waiver (STW) should the current application be approved, while the unauthorised building structures at the Site has been removed.

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

The applicant is not the “current land owner” of the Site but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by posting site notices and sending notice to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any active enforcement action.

5. Previous Application

There is no previous application covering the Site.

6. Similar Applications

6.1 There are 15 similar applications, involving eleven sites, for various temporary shop and services uses (including renewal of planning approvals granted) within the “V” zones in the vicinity of the Site in the past five years. All of the applications were approved with conditions by the Committee between July 2019 and January 2024 mainly on the considerations that temporary approval would not frustrate the long-term planning intention of the “V” zone; the proposed use was not incompatible with the surrounding uses; and the concerned government departments consulted in general had no adverse comment or their technical concerns could be addressed by relevant approval conditions. The planning permissions under applications No. A/YL-PH/816, 818, 867, 880, 889 and 925 were subsequently revoked between January 2022 and June 2024 due to non-compliance with approval conditions.

6.2 Details of the similar applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) currently vacant, partly formed and partly covered by weeds; and
- (b) accessible from Kam Tin Road via a local track.

7.2 The surrounding areas are rural in character comprising residential dwellings/structures intermixed with vehicle parks, open storage/storage yards, vacant land and grassland. The open storage/storage yards are suspected unauthorized developments subject to planning enforcement action.

8. Planning Intention

The planning intention of the “V” zone is to reflect existing recognized 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 NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

9.1. Apart from the government department 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 department has adverse comments on the application:

Land Administration

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

- (a) has adverse comment on the application;
- (b) the Site comprises Old Schedule Agricultural Lots 2625 and 2632 both in D.D. 111 held under the Block Government Lease which contains restriction that no structures are allowed to be erected without the prior approval of the Government;
- (c) there are unauthorised structures and uses on Lot 2625 in D.D. 111 which are already subject to lease enforcement actions according to case priority. The lot owner(s) should rectify/apply for regularisation on the lease breaches as demanded by LandsD. Warning letter has been registered in the Land Registry against the lot(s) concerned, if the unauthorised structure(s) was/were removed, the applicant should take appropriate action deemed necessary, including but not limited to applying to his Office for the issuance of a Cancellation letter;
- (d) if the planning application is approved, the lot owner(s) shall apply to his office for a STW to permit the structure(s) erected within the said lots. The application for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if approved, will be subject to such terms and conditions including the payment of waiver fee and administrative fee as considered appropriate by LandsD. Besides, given the proposed use is temporary in nature, only erection of temporary structure(s) will be considered;
- (e) it is noticed that staff resting area was proposed. According to the established practice, application for STW of structures for

domestic/residential uses on private agricultural land will not be entertained. Hence, even if the Board approves the subject planning application, his office will not consider approving/regularising any structure(s) erected/to be erected on the lots for domestic/residential uses; and

- (f) no Small House application approved or under processing within the Site.

10. Public Comments Received During Statutory Publication Period

During the statutory public inspection period, one comment was received from an individual expressing concerns that the Site has been used for open storage yard and raising doubts on the genuine intention to use the site for the proposed use (**Appendix V**).

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 “V” (**Plan A-1**). Whilst the proposed use is not entirely in line with the planning intention of the “V” zone, the proposed use can meet the demand for such use from locals. DLO/YL of LandsD advises that there is no Small House application approved or under processing at the Site. Approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “V” zone.
- 11.2 Filling of land within the “V” zone requires planning permission from the Board. In this regard, the Chief Engineer/Mainland North of Drainage Services Department and Director of Environmental Protection (DEP) have no objection to the application from drainage and environmental perspectives respectively.
- 11.3 The proposed use is considered not incompatible with the surrounding land uses which are rural in character comprising residential dwellings/structures intermixed with vehicle parks, open storage/storage yards, vacant land and grassland. The Chief Town Planner/Urban Design and Landscape of the Planning Department considers that significant landscape impact arising from the proposed use is not anticipated.
- 11.4 Other relevant departments consulted including the Commissioner for Transport and Director of Fire Services have no objection to or adverse comment on the application from traffic and fire safety perspectives respectively. 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 on the surrounding areas.

- 11.5 DLO/YL of LandsD's concerns on the unauthorised structures and uses under lease on the subject lots is a land administration matter. In this regard, the applicant states that application for STW will be made to LandsD. To address his concern, relevant advisory clause on application to LandsD for regularising the unauthorised structures and uses is recommended should the Committee decide to approve the application.
- 11.6 There are 15 approved similar applications for various temporary shop and services uses in the vicinity of the Site in the past five years as detailed in paragraph 6.1. Approving the current application is in line with the Committee's previous decisions.
- 11.7 Regarding the public comment received during the statutory public inspection period detailed in paragraph 10 above, the government departments' comments and planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department has no objection to the application.
- 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 16.8.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) 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 16.2.2025;
- (b) in relation to (a) above, the implementation of the 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 16.5.2025;
- (c) in relation to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) 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 16.5.2025;
- (e) if the above planning condition (c) 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 any of the above planning condition (a), (b) or (d) 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 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 is not in line with the planning intention of the "V" zone which 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. No strong planning justification has been given in the submission for a departure from the planning intentions, 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.
- 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 and Planning Statement received on 21.2.2024
Appendix Ia	FI received on 12.4.2024
Appendix Ib	FI received on 19.6.2024
Appendix II	Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Layout Plan
Drawing A-2	Land Filling Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos