

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

**APPLICATION NO. A/YL-KTN/729**

- Applicant** : Chief Force Limited
- Site** : Lots 422 S.B ss.1(Part), 422 S.B RP(Part), 422 S.C RP(Part) and 422 RP(Part) in D.D. 110, Pat Heung, Yuen Long
- Site Area** : About 2,049.66m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Agriculture” (“AGR”)
- Application** : Renewal of Planning Approval for Temporary Open Storage of Vehicles and Vehicle Parts for Export 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 open storage of vehicles and vehicle parts for export for a period of 3 years. The Site falls within an area zoned “Agriculture” (“AGR”) on the approved Kam Tin North Outline Zoning Plan No. S/YL-KTN/9 and the applied use is neither Column 1 nor Column 2 use in the “AGR” zone. According to the covering Notes of the OZP, temporary use not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently used for the applied use with valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site is subject to four previous applications for the same use as the current application, which were all approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2010 and 2017 for 1 year or 3 years. All the approval conditions for the last application No. A/YL-KTN/578 have been complied with and the planning permission is valid until 22.12.2020.

- 1.3 According to the applicant, a total of 6 structures of 1 to 3 storeys (not more than 7m high) are erected for storage of vehicle parts, fire service pump room, work area, office, meeting room and staff common room with a total floor area of about 2,402.7m<sup>2</sup>. 3 parking spaces for private cars and 1 loading/ unloading bay for light goods vehicle are provided. The operation hours are 9am to 6pm from Monday to Saturday, and no operation on Sunday and public holiday. The Site is accessible from Kam Tai Road via a local track. The site layout plan with landscape, drainage and fire service installations proposals (FSIs) submitted by the applicant is at **Drawing A-1**.
- 1.4 Compare with the last approved application No. A/YL-KTN/578, the current application submitted by the same applicant is the same in terms of applied use, site area and total floor area, except for the addition of a loading/ unloading bay.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary statement and plans received on 25.9.2020 **(Appendix I)**
  - (b) Further Information (FI) dated 5.11.2020 in response to departmental comments **(Appendix Ia)**  
*(exempted from publication requirement)*
  - (c) FI dated 11.11.2020 in response to departmental comments **(Appendix Ib)**  
*(exempted from publication requirement)*
  - (d) FI dated 16.11.2020 in response to departmental comments **(Appendix Ic)**  
*(exempted from publication requirement)*

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the supplementary statement in **Appendix I**, and are briefly summarized as follows:

- (a) The application is for the same use as the previous approval (Application No. A/YL-KTN/578). During the last application, no adverse comment from government departments or local objection was received. There is no significant change from the previous application and the Site has been maintained in good condition.
- (b) The development is temporary in nature and will not jeopardize the long-term planning intention of the “AGR” zone. Landscape, drainage facilities and fire service installations within the Site will be properly maintained. No vehicle exceeding 5.5 tonnes and no workshop activities will be involved in the development.

### **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 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**

4.1 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. 34C) are relevant to this application. The relevant assessment criteria are extracted below:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
- (d) whether the approval period sought is reasonable; and
- (e) any other relevant considerations.

4.2 The Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ (TPB PG-No. 13F) promulgated by the Board on 27.3.2020 are relevant to the application. The Site falls within the Category 2 areas under TPB PG-No. 13F. The relevant extract of the Guidelines is attached at **Appendix II**.

### **5. Background**

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

## 6. Previous Applications

- 6.1 The Site is the subject of four previous applications for the same use as the current application. Details of the applications are summarized in **Appendix III** and their location are shown on **Plan A-1**.
- 6.2 All the applications were approved with conditions by the Committee between 2010 and 2017 for 1 year or 3 years on similar considerations that the development was not incompatible with the surrounding land uses; the temporary nature of the development would not jeopardize the long-term planning intention; the application was in line with TPB PG-No. 13E in that the relevant departments except Director of Agriculture, Fisheries and Conservation and Director of Environmental Protection had no objection to the application; and the environmental concerns could be addressed by appropriate approval conditions. The planning permission of application No. A/YL-KTN/341 was revoked in 2010 due to non-compliance with approval conditions. All the approval conditions for the last application No. A/YL-KTN578 have been complied with and the planning permission is valid until 22.12.2020.

## 7. Similar Applications

- 7.1 There are 21 similar applications for various temporary open storage uses in the vicinity of the Site within the same “AGR” zone considered by the Committee/ the Board since the promulgation of the then TPB PG-No. 13E on 17.10.2008. Details of the applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1**.

### *Sixteen Approved Applications*

- 7.2 Eleven applications (No. A/YL-KTN/338, 339, 355, 373, 399, 442, 517, 553, 648, 654 and 704) for various temporary open storage uses were approved with conditions by the Committee for 1 year or 3 years between 2010 and 2020 on similar considerations that the developments were in line with TPB PG-No. 13E in that the relevant departments generally had no adverse comment and the environmental or landscape concerns could be addressed by appropriate approval conditions. However, the planning permission of four of them were revoked due to non-compliance with approval conditions.
- 7.3 Five applications (No. A/YL-KTN/343, 363, 441, 559 and 706) on a site for various temporary open storage use were approved with conditions by the Committee between 2010 and 2020 on similar considerations that the original site of the development was resumed for the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL) project and the applicant had spent efforts in identifying suitable site for continuous operation of his business for open storage and only the application site was identified; the developments were not incompatible with the surrounding land uses; and the concerns of the relevant government departments could be addressed by appropriate approval conditions. One of the planning permissions was revoked due to non-compliance with approval conditions

### *Five Rejected Applications*

- 7.4 Five applications (No. A/YL-KTN/375, 386, 392, 405 and 552) for various temporary open storage uses were rejected by the Committee or the Board on review between 2012 and 2017 mainly for the reasons that the developments were not in line with TPB PG No. 13E in that no previous planning approval had been granted; there was insufficient information to demonstrate that the developments would not cause adverse environmental, drainage, traffic and/or landscape impacts on the surrounding areas; and the approval of the applications would set an undesirable precedent.

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

### 8.1 The Site is:

- (a) paved, and fenced off and currently used for the applied use with valid planning permission; and
- (b) accessible via a local track branching off Kam Tai Road to the south which leads to Kam Tin Road.

### 8.2 The surrounding areas are mixed with open storage/storage yards, a workshop, warehouses, scattered residential structures/development and a plant nursery:

- (a) to its north are residential structures/dwellings (the nearest one is about 10m away), open storage yards, a warehouse and a plant nursery;
- (b) to its east are open storage yards, workshop, a warehouse and vacant land within an area zoned “Industrial (Group D)” (“I(D)”). To its further east is a large piece of land zoned “Open Storage” (“OS”) and “I(D)” on the Pat Heung OZP (**Plan A-1**), which is mainly occupied by open storage, workshop and warehouse uses;
- (c) to its south across Kam Tai Road and a nullah is a residential development, namely Seasons Villas; and
- (d) to its west is an open storage yard.

## **9. Planning Intention**

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.

## **10. Comments from Relevant Government Departments**

- 10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

### **Land Administration**

- 10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) The Site comprises Old Scheduled 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.
  - (b) Within the Site, part of 422 S.B ss.1 (Portion), 422 S.B RP and 422 S.C RP are currently covered by Short Term Waiver (STW) No. 3744 and 3745 to permit 'Temporary Open Storage of Vehicles and Vehicle Parts for Export.'
  - (c) Should the application be approved, the STW holders(s) will need to apply to his office for modification of the STW conditions where appropriate, and the owner(s) of the lot(s) without STW will need to apply to this office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

### **Traffic**

- 10.1.2 Comments of the Commissioner for Transport (C for T):
- (a) He has no comment on the application from traffic engineering perspective.
  - (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.

- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department (TD). The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW of HyD):

- (a) Part of Kam Tai Road is maintained by his Office.
- (b) HyD is not/shall not be responsible for the maintenance of any access connecting the Site and part of Kam Tin Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

**Environment**

10.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.
- (b) There is no environmental complaint concerning the Site received by DEP in the past three years.

**Agriculture**

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

Considering that the previous applications for the same use as the current application were approved by the Board, he has no strong view against the application for renewal of planning approval.

**Drainage**

10.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD):

- (a) He has no objection in principle to the development.
- (b) Presumably, the applicant would maintain the same drainage

facilities as those implemented under previous application No. A/YL-KTN/578. The applicant should inform relevant department if the drainage arrangement has been changed.

- (c) Should the application be approved, approval conditions requiring the maintenance of the drainage facilities implemented under Application No. A/YL-KTN/578 and the submission of a record of the existing drainage facilities on the Site to the satisfaction of the Director of Drainage Services or of the Board should be included.

### **Building Matters**

10.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW of BD):

- (a) As there is no record of approval by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (d) Before any new building works (including containers/ open sheds as temporary buildings and land filling) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.

### **Fire Safety**

10.1.8 Comments of the Director of Fire Services (D of FS):

He has no in-principle objection to the renewal application subject to the existing FSIs implemented on the Site being maintained in efficient working order at all times.



### **District Officer's Comments**

10.1.9 Comments of the District Officer/Yuen Long, Home Affairs Department (DO/YL of HAD):

He has not received any comments from the locals and has no comments on the application.

10.1.10 The following Government departments have no comment on/ no objection to the application:

- (a) Director of Electrical and Mechanical Services
- (b) Chief Engineer/Construction, Water Supplies Department
- (c) Project Manager West, Civil Engineering and development; and
- (d) Commissioner of Police

## **11. Public Comment Received During the Statutory Publication Period**

On 9.10.2020, the application was published for public comments. During the three-week statutory publication period, no public comment was received.

## **12. Planning Considerations and Assessments**

12.1 The application is for renewal of the planning permission for temporary open storage of vehicles and vehicle parts for export in "AGR" zone. The planning intention of the "AGR" zone is primarily to retain and safeguard good quality 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. Although the applied use is not in line with the planning intention of the "AGR" zone, DAFC has no strong view on this renewal application. It is considered that temporary approval of the application would not frustrate the long-term planning intention of the "AGR" zone.

12.2 The development is considered not incompatible with the surrounding land uses which are rural in character and intermixed with open storage/storage yards, workshop, warehouse, residential structures/dwellings, plant nursery and vacant land. Besides, "OS" and "I(D)" zones with open storage uses are located to the east of the Site.

12.3 The Site falls within Category 2 areas under the TPB PG-No. 13F. 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 3 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 in line with TPB PG-No. 34C and TPB PG-No.13F in that all the approval conditions under the last approved Application No. A/YL-KTN/578 had been complied with. There is no adverse comment from the concerned departments. The applicant also submitted landscape, drainage and FSIs proposals in the current application. Compared with the last approved application No. A/YL-KTN/578, the current application submitted by the same applicant is the same in terms of use, site area and total floor area. Besides, there is no major change in planning circumstances since the last approval. To minimize any possible environmental nuisance, approval conditions restricting the operation hours and vehicle type and prohibiting workshop-related activities are recommended in paragraph 13.2 (a) to (d) below. Besides, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Open Storage and Other Temporary Uses”. The technical requirements of C for T, CE/MN of DSD and D of FS can be addressed by approval conditions in paragraph 13.2 (e) to (h) below.

12.5 No Public comment was received during the statutory publication period.

### **13. Planning Department’s Views**

13.1 Based on the assessments made in paragraph 12, the Planning Department considers that the temporary open storage of vehicles and vehicle parts for export 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, and be renewed from 23.12.2020 to 22.12.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

#### Approval Conditions

- (a) no operation between 6:00p.m. and 9:00a.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 medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activity is allowed on the Site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;

- (f) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of the record of the existing drainage facilities on the Site within 3 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 23.3.2021;
- (h) the existing fire services installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (i) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (h) 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;
- (j) if the above planning condition (g) 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
- (k) 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.

*[The above approval conditions are similar to those under the last Application No.A/YL-KTN/578, except deletion/ change of those on FSIs according to the comments D of FS.]*

#### 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 Member's reference:

the development is not in line with the planning intention of the "AGR" zone, which 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. No strong planning justification has been given 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 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**

<b>Appendix I</b>	Application form with attachments received on 25.9.2020
<b>Appendix Ia</b>	FI dated 5.11.2020
<b>Appendix Ib</b>	FI dated 11.11.2020
<b>Appendix Ic</b>	FI dated 16.11.2020
<b>Appendix II</b>	Relevant extract of TPB PG No.13F
<b>Appendix III</b>	Previous applications covering the Site
<b>Appendix IV</b>	Similar applications within the same “AGR” zone
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan with Landscape, Drainage and FSIs Proposals
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
NOVEMBER 2020**